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provincial

AN

ELEMENTARY ANALYSIS

OF THE

LAWS AND REGULATIONS

ENACTED BY THE

GOVERNOR GENERAL IN COUNCIL,

AT FORT WILLIAM IN BENGAL,

FOR THE

CIVIL GOVERNMENT OF THE BRITISH TERRITORIES UNDER THAT PRESIDENCY.

18/1

IN SIX PARTS.

VOL. III.

COMPRISING EIGHT SECTIONS OF THE THIRD PART,

AND

THE FOURTH, FIFTH, AND SIXTH PARTS.

BY

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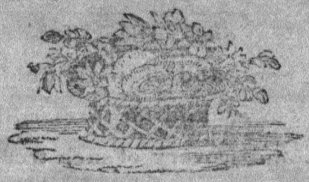

THIRD PART.

SECTION V.

SAYER DUTIES ABOLISHED; AND CALCUTTA MARKET DUTIES.

Policy of resuming and afterwards abolishing the sayer duties with certain exceptions, already stated.

All the rules, on this subject, for Bengal, Behar, and Orissa, collected in Regulation 27, 1793.

THE motives of policy, which influenced first the resumption, and afterward the abolition, with certain exceptions, of the internal duties known by the general denomination of *sayer*, or variable imposts, have been already stated.* The Governor General in Council deeming it of importance, that all the rules passed relative to the sayer, in the lower provinces, since the resumption of this article of revenue from the landholders, on the 11th June 1790, should be made as public as possible, for general information, the whole of them were included in Regulation 27, 1793; with a provision that the several rules therein specified "are to be considered to have operated from the date on which they were respectively passed; and to be still in force, excepting where they shall have been wholly or partially modified, altered, or rescinded by subsequent rules." The following are the principal provisions of this regulation:

1. *Rules for resumption of the sayer, passed on the 11th June 1790.*

* Vol. 2, page 222, and sequel.

Rules for resumption of the sayer, 11th June 1790.

Taxes and duties to be levied by Government only.

Rents for the use of land, or for houses erected thereon, not within the above prohibition.

Collectors to attend carefully to the above distinctions in resuming gunges, &c.

Collectors to appoint competent persons to the management of the gunges, &c. with instructions to keep the accounts herein specified.

To discontinue all rahdarry and other collections prohibited by Government.

As well as all monopolies and exclusive privileges for making or selling particular articles; and to establish a moderate duty on such articles.

To collect authorized existing duties until the end of the year.

Collectors to transmit abstracts of the collections with propositions for the regulation of them.

First. "No landholder, or other person of whatever description, shall be allowed to collect, in future, any tax or duty of any denomination; but all taxes and duties shall be hereafter levied on the part of Government, by officers duly appointed for that purpose, under such regulations as may be passed for their guidance." *Second.* "No monthly or annual payments now made, or which may be hereafter made for the use of land, or houses, shops, or other buildings erected thereon, being clearly of the nature of rents, and not duties or taxes, are to be understood to be within this prohibition; but all such rents are to be enjoyed by the proprietors entitled thereto, as heretofore." *Third.* "The collectors, in resuming gunges, hauts, and bazars, as already ordered, are to attend carefully to the distinctions contained in the two preceding articles; resuming universally whatever collections come within the first, and avoiding generally any resumption of the rents described in the second." *Fourth.* "The collectors are to appoint competent persons to the management of the several gunges, hauts, and bazars, within their respective jurisdictions, with orders to keep the most particular accounts of their receipts during the current year; distinguishing, as far as possible, the articles on which the duties may be collected by them, as well as the nature and rate of each; and with the following general instructions, in addition to such as they may, from local circumstances, think necessary. To discontinue all rahdarry, chelunta, and other collections of every denomination prohibited by the orders of Government. To discontinue all monopolies and exclusive privileges for the manufacture or sale of particular articles; and establish in lieu of them, with the sanction of the collectors, a moderate duty on such articles, to be levied at the time of manufacture or sale. To collect all existing duties, as far as may be compatible with these principles, according to their present rates, to the end of the current year." *Fifth.* "At the end of the current year, the collectors are to transmit abstracts of the accounts delivered by the several agents employed by them in the collection of duties, with such remarks as may be necessary for full information of the nature

ture of the several articles of collection, and specific propositions for the regulation thereof in future." *Sixth.* "The collectors are to propose such establishments as they may think necessary for the collection of the duties within their respective districts for the current year; observing therein the greatest possible attention to economy; and such establishments are to be decided on by the Board of Revenue." *Seventh.* "The gunge, haut, bazar, and other duties, (the abkarry only excepted,) which may be collected during the current year on lakheraj land, and of which no part has hitherto been received by Government, are, after deducting the amount of the establishment approved by the Board of Revenue, to be paid monthly to the persons who would have been entitled to receive the same, in case the collection had not been taken into the hands of Government, on receipts for the amount so paid." *Eighth.* "The land revenue is to be adjusted according to the rules already prescribed for the decennial settlement, on the assets of the malguzarry land, exclusive of the duties resumed, and that of the gunge, haut, bazar, and other duties, (the abkarry excepted,) which may be collected during the current year on malguzarry land, or which have hitherto been a source of revenue to Government. After deducting the amount of the approved estsblishment, one-tenth is to be paid to the proprietors of the land wherein the duties shall be collected; and the remaining nine-tenths are to be carried to the credit of Government. Disputed claims to this allowance, are to be decided on in the first instance by the collectors, subject to an appeal to the Board of Revenue within the period prescribed for appeals by the existing regulations." *Ninth.* "It shall be notified to all persons who have hitherto exercised the privilege of collecting gunge, bazar, haut, and other duties, whether on lakheraj or malguzarry land, that they are at liberty to appoint agents on their parts to keep counterpart accounts of the collections made by the officers of Government during the current year; and in the event of their appointing such, the collectors are to require the officers employed by them to obtain the joint signature of the agents to the several accounts

Collectors to propose establishments for the collection of the duties for the current year.

Collections on the lakheraj lands to be paid to the proprietors.

Land revenue to be adjusted exclusive of the duties resumed. One-tenth of the neat amount of the resumed collections to be paid to the proprietors of malguzarry land.

Disputed claims on this account to be decided by the collectors, subject to an appeal to the Board of Revenue.

Persons heretofore entitled to levy duties may appoint officers to keep counterpart accounts of collections made by the officers of Government.

Compensation to be made to the holders of gunges, &c. for the sayer resumed.

accounts transmitted by them." *Tenth.* "The holders of all gunges, bazars, hauts, &c. are informed, that it is the intention of Government to make them an equitable compensation hereafter, adequate to the profit they were entitled to from all duties collected by them, with due authority, or by usage commencing previous to the Company's acquisition of the dewanny; and they are required, in order to enable Government to determine on the compensation to be made to them, to exhibit before the collectors, within three months from the date of a public notice to be issued to that effect, the titles by which they have levied the gunge, bazar, haut, and other duties collected by them respectively; or proof of their having established the same before the Company acquired the dewanny," *Eleventh.* "The collectors, on exhibition of the vouchers, and proofs, offered in pursuance of these regulations, or as soon afterwards as circumstances may admit, are to enter into a full examination of the same; and to transmit their proceedings at large, with a summary, to the Board of Revenue, at the close of the current year, together with the abstract required in the fifth article, adding in every instance their opinion how far the right of collection appears to be established, or otherwise. The Board of Revenue, on receipt of these reports, are to forward the same, with their opinion on each case, after requiring any further information they may think necessary, to the Governor General in Council; who will then determine on the right of the several parties to a compensation; as well as on the mode of making the same." *Twelfth.* "All persons exacting duties contrary to these regulations, whether principals or accessaries, are declared liable to prosecution in the courts of dewanny adawlut; the judges of which are to hear and determine the cause within ten days after its institution; and on proof of the exaction, are to decree heavy damages, with all costs, to the party injured, according to the circumstances of the offenders; and enforce the payment thereof by the customary process." *Thirteenth.* "Where persons may be in receipt of pensions for charitable or religious purposes, from the gunge, haut, or bazar, duties resumed, the collectors are to transmit

Period limited for the exhibition of titles and claims to such compensation.

Collectors to examine the vouchers and proofs of each title;

and to transmit their proceedings and the abstracts required in article 5, to the Board of Revenue.

With their opinion what claims are established, or otherwise.

Board of Revenue to forward these reports to the Governor General in Council.

Who will determine on the compensation and the mode of making it.

Persons exacting duties contrary to this regulation liable to be sued in the dewanny adawlut.

Decree to be passed by the court on proof of the charge.

[illegible] to [illegible]ections [illegible] propositions [illegible] the regulati[illegible] of them.

transmit a list thereof, with a report of the origin and amount of such pensions; and state how far the persons receiving the same are objects of charity, who would be distressed by an immediate discontinuation of the allowances to them respectively." *Fourteenth.* "These rules are not to extend to gunges, bazars, and hauts, within the limits of the town of Calcutta." *Fifteenth.* "The collectors are to give the strictest attention to the due enforcement of these orders; which, with Persian and Bengal translations, shall be printed and circulated throughout the several districts for general information." 2. In qualification of the seventh and eighth articles of the above rules, it was directed by a further rule, passed on the 23d June 1790, that the allowances fixed for the officers appointed on the part of Government to collect the duties in the gunges, hauts, and bazars, for the current year, be paid by Government, and not from the collections of the gunges, hauts, and bazars.

With a report on the amount and origin of the claims, and whether the claimants are objects of charity.

These rules are not to extend to gunges, &c. within the town of Calcutta.

Collectors to attend strictly to these orders; which are to be printed and circulated with translates.

Further rule passed 23d June 1790.

Expenses of the collection of the sayer directed to be defrayed by Government for the year in which it was resumed.

3. *Rule for abolition of the sayer passed on the 28th July* 1790.

"The privilege of imposing and collecting internal duties has been resumed from the landholders, and taken exclusively into the hands of Government, for the purpose of reforming abuses in these collections, and thereby affording benefit to the commerce of the country, as well as general ease to its inhabitants. For the more effectual attainment of these objects, the Governor General in Council has now resolved, that all duties, taxes, and other collections, coming under the denomination of sayer, (with the exception of the Government and Calcutta customs; the duties levied on pilgrims at Gya, and other places of pilgrimage; the abkarry, or tax on spirituous liquors, which is to be collected on account of Government agreeably to former orders; the collections made in the gunges, bazars, or hauts, situated within the limits of Calcutta; and such collections as are confirmed to the landholders, and the holders of gunges, bazars, and hauts, by the published resolutions of the 11th June 1790; namely, rent paid for the use of land, or for houses, shops, or other buildings erected thereon, or for orch-

Rule for abolition of the sayer; 28th July 1790.

ards, pasture ground, or fisheries, sometimes included in the sayer under the denomination of phulker, bunker, and julker,) whether made by Europeans or Natives, either on their own or the public account, in the gunges, bazars, hauts, or other places within the provinces, be forthwith abolished; and that the compensations, to be made in consequence, be regulated by an average of the neat produce stated in the past accounts, for as many years as they can be procured, not exceeding ten; (excluding therefrom such collections as have been prohibited by Government;) and be adjusted, with regard to the collections in malguzarry and lakheraj lands respectively, according to the principles already laid down in the resolutions of the 11th June 1790. The collectors have accordingly been required to withdraw their officers from the gunges, bazars, and hauts; and to transmit the accounts necessary for adjusting the compensation, without delay; together with the reports before required from them on the titles by which the duties have been hitherto collected by the several persons levying them. At the same time, the Governor General in Council conceiving there may be proprietors of petty gunges, bazars, and hauts, in the lakheraj lands, whose subsistence has been chiefly drawn from the collections now abolished; and who may be subjected to distress or inconvenience, unless some provision be made for them during the period which may elapse previous to the adjustment of the compensation to be allowed them; has instructed the collectors, on proof of the situation of persons so circumstanced, to make them such monthly allowance as may appear advisable; to be deducted from the amount of the compensation to which they may finally appear entitled; provided that in no case the monthly allowance so given exceed the estimated monthly neat produce of the duties hitherto received by the parties respectively."

4. *RULE PASSED ON THE 6TH AUGUST* 1790.

Additional rule passed 6th August 1790. The ground on

First. "The proprietary right in the ground, on which hauts and bazars are held, is to continue vested in the landholders; but the

the public are to have the free use of it. The rules passed on the 28th July 1790, extending to the abolition of all collections heretofore made under the head of tehbazaree or other denominations, from persons exposing their goods for sale in the gunges, bazars, and hauts, under temporary stalls and sheds, or in the open street; and as the landholders are to receive a compensation for these collections, they can have no right, whilst such compensation is continued to them, either to appropriate the ground, for the temporary use of which such collections were made, to any other purpose; or to levy any exactions whatever from the persons who may in future expose their goods thereon for sale, as heretofore. The ground on which hauts and bazars are now held, is accordingly to be continued to be appropriated to this purpose free of all charge to the venders." *Second.* "The above rule is not to preclude the landholders from receiving the monthly or annual rent arising from permanent shops, or other buildings, the collection of which is confirmed to them by the rules of the 11th June 1790."*

which hauts and bazars have been held to continue appropriated for that purpose for the public, free of all demand from the proprietor.

Rule in preceding clause not to deprive the landholders of the collections declared to belong to them by the rules of the 11th June 1790.

* On the 27th July, 1814, the Court of Sudder Dewanny Adawlut determined, on a reference from the acting judge of zillah Dinagepore, that a compensation for the use of ground occupied by temporary sheds, or booths, during a fair, and regulated partly by the value of the articles sold, "not being within the Second Clause of Section 5, Regulation 27, 1793; but on the contrary appearing to be evidently within the first clause of that section; the court consider any rent, or duty, for the use of the ground on which they are erected, to be unauthorized." Whether a daily rent could be legally taken for the use of any *permanent building*, constructed in a bazar, or haut, for the accommodation of the venders who frequent the market, or fair, has not yet been decided. In the old hauts and bazars, the ground appropriated to which, in consideration of the compensation made to the proprietors, is "to be continued to be appropriated to this purpose free of all charge to the venders," no such building could perhaps be erected, or a rent taken for the use of it, without the sanction of Government. But in new bazars or hauts, (the establishment of which, though not authorized by any regulation, appears to be now considered discretionary, without the limits of Calcutta, so that no prohibited duties are levied;) there seems to be no restriction in the regulations against the receipt of a stipulated rent for the use of any permanent building which might be constructed for the shelter and convenience of the venders; provided that such rent, which might be regulated by the square dimension let to each tenant, and paid monthly to bring it within the express provision of the regulations, be not, in any instance, made a duty *advalorem*; or to depend, in any form, upon the value of the article sold. All duties of this description, whether levied from the sellers, or purchasers, have been often declared illegal; and the court of Sudden Dewanny Adawlut passed a further determination to this effect on the occasion of the reference already adverted to.

Rules passed 8th April 1791. Compensation to the proprietors of gunges, &c. in lands exempted from the payment of revenue, how to be discharged.

5. *RULES PASSED ON THE 8TH APRIL* 1791.

First. "The amount of the compensation to be given to the lakheraj holders of the sayer abolished, after a determination on their right thereto, in the mode diricted by the regulations of the 11th June 1790, shall be paid in money; or in bonds bearing interest at the rate of twelve per cent per annum; to be paid in quarterly proportions by the collector of the district in which the gunge, haut, or bazar, yielding the sayer abolished, may be situated, until it shall suit the convenience of Government to pay off the principal; the amount of which is to be regulated upon this principle, that the annual interest be equal to the neat annual profit derived from the sayer abolished." *Second.* "The amount of the compensation to be given to the malguzarry holders of the sayer abolished, after the like determination on their right thereto, is to be provided to such of them as may engage for the revenue of their own lands, by granting to them an abatement of jumma, equal to the full amount of their neat collections on account of the sayer abolished; which will include their one tenth profit, for which the compensation is ordered; and to those whose lands may now or hereafter be let in farm, by stipulating with the farmers for the payment of the amount of the compensation, in addition to the jumma of Government; for securing which payment to the malguzars, a certificate is to be given to each of them, under the seal and signature of the Board of Revenue, declaring the anuual neat amount of their sayer abolished; and their title to one-tenth thereof as their compensation receivable in the manner herein stated." 6. Many lands having been already let in farm for ten years, without any stipulation with the farmers for the payment of the compensation provided for by the second clause of the rules last mentioned, the following was substituted for it on the 15th April 1791. "The amount of the compensation to be given to the holders of the malguzarry sayer abolished, after a determination on their right thereto, in the mode directed by the resolutions of the Governor General in Council of the 11th June 1790, is to be provided to such of them as may engage with Government for the

Compensation to the proprietors of gunges, &c. in lands paying revenue to Government, how to be discharged.

Last clause altered by a rule substituted on the 15th April 1791.

Amended rule.

the revenue of their own lands, by granting to them an abatement of jumma, equal to the full amount of their former neat collections from the sayer abolished, including their one tenth profit for which the compensation is ordered; and to those whose lands may now or hereafter be let in farm, or held khas, by the annual payment of the amount of such compensation on the part of Government, to be made in quarterly proportions by the collector of the district, in which the gunge, haut, or bazar, yielding the sayer abolished, may be situated; for securing which payment to the malguzarry holders entitled thereto, a certificate is to be given to each of them, under the seal and signature of the Board of Revenue, declaring the neat annual amount of their sayer abolished; and their title to one-tenth thereof as their compensation; receivable in the manner herein stated, until it can be provided by an abatement of jumma, on the settlement of their lands being made with them, in which case they will be no longer entitled to the payment specified." 7. Doubts having arisen whether, under the rule passed on the 15th April 1791, the one tenth compensation was to be made to disqualified landholders by a reduction of jumma, or by a money payment from Government, their lands being nominally held khas, though really managed for the benefit of the proprietors (any surplus collection above the fixed revenue being applied to their benefit) it was declared on the 24th June 1791, "that the compensation in these instances is to be made in like manner as if the settlement were made with the proprietors; viz. by an abatement of the revenue assessed upon their lands, equal to the full amount of the former neat collections of the sayer resumed or abolished; including their one tenth, for which the compensation is ordered; or in cases where a new assessment of their lands may be made, on consideration of the land assets only, by an abatement of such assessment, equal to the amount of the one tenth compensation due to them."

Explanatory rule passed on 24th June 1791, respecting estates of disqualified landholders.

8. On the 23d December 1791, the Board of Revenue were directed to grant certificates, under their seal and signature, to the

Rule for granting certificates to proprietors of lakheraj gunges, &c.

proprietors of lakheraj gunges, bazars, and hauts, for the amount of the compensations to which they may be entitled. And on the 20th April 1792, a form (which it is unnecessary to specify) was prescribed for the certificates to be granted to the proprietors of lakheraj and malguzary gunges, hauts, and bazars.

And forms of certificates prescribed.

Penalty for exaction of unauthorized duties.

9. *Rule passed on the 27th April* 1792. "Persons exacting taxes or duties of any denomination contrary to the sayer regulations of the 11th June 1790, whether as principals or accessaries, having, by the 12th article of the regulations of that date, been declared liable to prosecution in the courts of dewanny adawlut, the judges of the said courts are required to receive all plaints preferred on account of such exactions; to hear and determine the same within ten days from the date of filing the plaint, or as soon afterwards as the attendance of the necessary evidence may admit; and on proof, to decree a refund of the amount exacted, with damages equal to double the amount, besides all necessary costs incurred by the plaintiff in the prosecution; as well as a heavy fine to Government, proportionate to the circumstances of the offender; which decree shall be enforced by them by the process prescribed in other cases; and if the property of the offender, which shall be applied in the first instance to make good the damages and costs adjudged to the party injured, shall be in any instance insufficient to make good the fine to Government, the courts may order the fine to be commuted to imprisonment, for such period as on consideration of the case may appear to them adequate to the offence."

Adjustment of sayer deductions and compensations to be left to the revenue officers; subject to the confirmation of the Governor General in Council.

Courts not to take cognizance of any claims respecting deductions or compensations made or to be made.

10. *Rule passed on the 1st May* 1793. "In the event of any deductions or compensations, on account of the abolition of the sayer, remaining to be adjusted, the adjustment of them is to be left to the collectors, under the superintendence of the Board of Revenue, and subject to the final confirmation of the Governor General in Council. The courts of judicature are not to take cognizance of any claims regarding such deductions or compensations, that have been, or may remain to be, adjusted. But in cases in

which

which the compensation on account of the abolition of the sayer, either in lands paying revenue to Government, or exempted from the payment of such revenue, shall have been finally adjusted with the sanction of the Governor General in Council, and payment of the amount, which may be due under such adjustment, shall be withheld from the person entitled thereto, the courts of dewanny adawlut may take cognizance of any suit that may be preferred to them against the officer withholding the same, for obtaining payment of the amount. If the payment shall have been withheld pursuant to orders from the Governor General in Council, or the Board of Revenue; the judge, previous to proceeding to the trial of the suit, is to forward the petition of the complainant to the Governor General in Council, in the same manner as is directed with regard to the cases specified in Section 11, Regulation 3, 1793; that, if it shall appear to him proper so to do, he may afford redress to the party without bringing the suit to a trial.* Suits insituted against Government under this section, and which may be brought to a trial, are to be defended by the collector; who is to commit the pleading of the cause to the vakeel of Government; and in the event of Government being cast, or of the collector being dissatisfied with the decision, he is to report the circumstances to the Board of Revenue, that an appeal may be preferred against the decision, if deemed advisable."

But if the payment of compensations which have been adjusted are withheld, courts may take cognizance of suits for recovery of the amount.

Rules regarding such suits.

To these rules for the resumption and abolition of the sayer in the lower provinces, and for granting a compensation to the landholders affected thereby, it is sufficient to add, that ample time having been given for the institution of claims to compensation under the provisions referred to, it is enacted by Section 2, Regulation 6, 1811, that "no claims to compensation on account of the abolition of the sayer, which shall not have been preferred to the proper authority previously to the promulgation of this regulation, shall be received or admitted."

Provision in Regulation 6, 1811, against admission of claims to compensation not preferred before promulgation of that Regulation.

* The petition of complaint is to be forwarded to the Board of Revenue, or Board of Commissioners in the upper provinces, instead of the Governor General in Council, under the provisions of Section 2, Regulation 2, 1814; which have been stated at length in vol. 2, p. 423, and sequel.

THE

Sayer duties abolished in Cuttack, by Section 31, Reg. 12, 1805; with certain exceptions.

And rules for preventing unauthorized collections in Bengal, declared to be in force in that zillah.

Compensation to be made to persons entitled.

THE settlement of the land revenue in Cuttack having been made exclusive of the sayer, all duties of that description were declared, by Section 31, Regulation 12, 1805, to be abolished in this zillah, "with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs; and the duties levied from pilgrims at Juggernauth." The rules contained in Regulation 27, 1793, for preventing the collection of any chelunta, rahdarry or other duties, by the zemindars, talookdars, farmers and other holders of land in the province of Bengal, were "declared to be in force in the zillah of Cuttack:" and it was notified to be the intention of Government to grant adequate compensations to all persons who derived advantages from the late sayer duties under competent authority from the Government of Behar, or in conformity to long and established usage."

Preamble to Regulation 4, 1795, stating the duties and tolls formerly collected in the province of Benares, and measures adopted for discontinuance of them.

BEFORE the cession of Benares to the Company, and till the year 1781, when the British resident first exercised a control over the internal administration of that province, various duties and tolls, in addition to the duties collected on the import and export trade, were exacted throughout the province; and notwithstanding the orders passed in that year, that no duties should be collected but at the stations of Ghazeepore, Benares, and Mirzapore, and the repetition of those orders in 1784, the trade of the province continued to be burdened by a variety of interior tolls and exactions, levied partly at the custom houses, and partly by the aumils, and the zemindars and farmers under their authority, until the end of the Fussily year 1194, or September 1787; subsequent to which period, in order to remove these obstructions to the trade of the province, the following measures were adopted, and rules established.

Section 2. Abolition of the rahdarry, and other interior duties, collected by the zemindars, and in aumils.

1. IN the settlement for the Fussily year 1195, it was stipulated with the aumils by a clause in their cubooleeuts, that they should relinquish the collection of all tolls and duties on the transportation of grain, and other articles of the interior trade of the province,

province, which they before collected with the land revenue, under the penalty of being subject to a fine, equal to treble the amount of every sum so levied. 2. On the 26th December 1787, the Governor General in Council ordered, that the zemindary duties, and all other collections on merchandise, excepting those authorized by Government, should be formally abolished; and penalties were prescribed for such persons as might be convicted of levying any exaction whatever on the property of the merchants, contrary to the spirit of this order. 3. It was in consequence ordered by the 13th article of the custom house regulations of the 29th March 1788, which were in force from the 1st April following, "that no duties, of any kind or denomination, should be collected in any part of the country, excepting at the four principal custom houses of Benares, Ghazeepore, Juanpore, and Mirzapore; nor upon the transportation of any goods produced or manufactured in one part of the country, and sold or consumed in another, (with the exception of the goods sold which might be afterwards exported,) and that any person levying duties, or exactions, under whatever denomination, on such goods, in opposition to this prohibition, should be liable to a fine, equal to three times the amount received;" and as an encouragement to persons so aggrieved to prefer their complaints to the judge of the nearest court of adawlut, who was bound to render them speedy and effectual justice, the whole of the fine was directed to be paid to the party from whom the exaction might be made. 4. The settlement for 1196 (commencing with September 1788) having been formed on estimates of the *mal* and *abwab*, without including the sayer collections before levied by the aumils and landholders, which had been prohibited in the preceding year, a clause was inserted in the engagements of the aumils, reciting "that all the sayerjehaut, or sayer collections, and the duties on the transportation of merchandise, having, from the preceding year, 1195 Fussily, been prohibited by Government, they were neither themselves to levy, nor to allow any other person to levy, any of those articles of collection; under the penalty of paying a fine equal to treble the amount received;" and they were furnished with

Section 3. Order of Government for the general abolition of all zemindary duties.

Section 4. Prohibition of all interior zemindary, rahdarry and gunge duties, and penalty for the exaction of them.

Section 5. Stipulation with the aumils for the relinquishment of the sayer collection.

with forms of caboolceuts, containing clauses to a similar effect, to be taken by them from their under-renters, the village zemindars, and farmers. 5. On the conclusion of the permanent settlement with the zemindars and farmers, in 1197, they entered into engagements, in which it was stipulated, "that as all the sayerjehaut, and rahdarry duties, and exactions, had been abolished from the Fussily year 1195, they were not to make any collections on these accounts, under the penalty of paying treble the amount exacted, in the same manner as had been stipulated with the aumils in the preceding years." 6. At the formation of this permanent settlement, the aumils also (who were appointed to collect the land revenue) entered into a new engagement with Government, by which it was stipulated, that as all gunge, rahdarry, and sayer collections, had been abolished from 1195 Fussily, they were not to collect, receive, or suffer to be collected, or received, any thing on these accounts, under the prescribed penalty of paying treble the amount so exacted. 7. In Section 8, of Regulation 4, 1795, it is enacted that the above prohibitions "are to be strictly attended to, and the whole of the penalty recoverable on every breach of them is to be paid to the party from whom the illegal exactions may be made, on his proving them in a court of judicature." 8. The following provisions are added in the ninth and tenth sections. 9. "It being of importance that merchants, and others, from whom any such illegal exactions may be made, should obtain the most speedy redress, the judges of the several courts are required to be at all times ready to receive and hear complaints of such exactions, in preference to all other suits; so that the party injured may experience the least possible delay in obtaining a decision." 10. "As it may happen; that persons from whom such illegal exactions may occasionally be made, by zemindars or others, may omit to prosecute the offender in a court of justice; and it being essential to the protection of the trade of the country, that every means should be adopted for preventing such undue collections; the darogahs of each station (of the customs) are to be careful to transmit to the collector information of all unauthorized chowkies

Section 6. Engagements of the zemindars and farmers to the same effect in 1197.

Section 7. And the aumils for the same year.

Section 8. Above prohibitions confirmed; and penalty for breach of them recoverable in courts of judicature.

Section 9. Suits founded on these regulations to be tried in preference to others.

Section 10. Authority vested in the collector and darogahs of the custom houses for repressing undue exactions.

chowkies stationed for the collection of duties, that may at any time be attempted to be established by any zemindar, farmer, or other person, or persons, for the collection of rahdarry, or gunge, or other duties, or exactions; and if the party thus offending shall not immediately withdraw and abolish the chowkey so established, as well as pay to the collector the amount that he, or his people, may have levied, (which is to be restored to the party or parties from whom it may have been exacted,) the collector is to cause a prosecution to be instituted against such zemindar, farmer, or other person so offending, both for the removal of the chowkey, and for the recovery of the prescribed penalties."

Sayer excluded from settlement with landholders and farmers in upper provinces.

And certain duties abolished by Section 2, Regulation 38, 1803.

By the rules established for the settlement of the upper provinces (as detailed in the second volume) the *sayer*, of every denomination, was excluded from the engagements of the landholders and farmers, from the commencement of the Fussily year 1210; and by Section 2, Regulation 38, 1803, it was enacted that "all duties under the denomination of sayer, rahdarry, zemindarry, or under any other denomination, imposing a tax on the transport, export, or import of goods, or merchandize of any description, through, from or into, the ceded provinces, shall be considered as abolished." It was at the same time provided, by Section 15, of the same regulation, that "nothing in this regulation shall be construed to authorize an exemption of goods, or other articles, sold in the bazars and gunges of the ceded provinces, from paying the regular gunge duties hitherto levied; which shall be levied at the usual rates, until a regulation shall be passed for modifying and altering them, where they may appear to be injurious to the retail trade of the country." The whole of Regulation 38, 1803, was afterwards rescinded by Section 2, Regulation 11, 1804; but the provisons above stated were repeated, and extended to the provinces ceded by Doulut Rao Sindhea, and the Peshwa, in the following terms. § 3. "All duties levied under the denomination of sayer, rahdarry, zemindarry, or any other denomination, which constitute a tax on the transport, export, or import of goods, or merchandize,

Section 15. But gunge and bazar duties to be levied by officers of Government at usual rates, till regulated.

Regulation 38, 1803, rescinded by Section 2, Regulation 11, 1804.

Section 3. But abolition of unauthorized sayer repeated.

merchandize, of any description, through, from, or into, the provinces ceded by the Newab Vizeer to the Honorable the English East India Company, and all other duties not authorized by this regulation, or by any other regulation which shall be hereafter enacted, and printed and published in the manner prescribed by Regulation 1, 1803, are hereby declared to be abolished." § 4. "All duties levied, under the denomination of sayer, rahdarry, zemindarry, or any other denomination, which constitute a tax on the transport, export, or import, of goods or merchandize of any description, through, from, or into the territories ceded to the Honorable the English East India Company by DOULUT RAO SINDHEA, situated within the Dooab (or country lying between the rivers Ganges and Jumna,) and on the right bank of the river Jumna, (with the exception of the city of Delhi and the territory on the right bank of the Jumna, the revenues of which are assigned to His Majesty SHAH ALUM,) and the territory in Bundlecund, situated on the right bank of the river abovementioned, ceded to the Honorable the English East India Company by the Peshwa, which shall not be authorized by this regulation, or by any other regulation which shall be hereafter enacted, and printed and published in the manner prescribed by Regulation 1, 1803, shall be abolished in the said territories, from the commencement of the ensuing Fussily year 1213." § 19. "Nothing contained in this regulation shall be construed to exempt goods, or other articles, sold in the bazars and gunges in the ceded and conquered provinces, from the payment of the established gunge and bazar duties, now levied on account of Government. Such duties shall continue, for the present, to be collected at the usual rates."

Section 4. And extended to conquered provinces.

Section 19. Nothing contained in this regulation, to exempt goods from the established gunge and bazar duties.

IT was not till the commencement of the Fussily year 1213, corresponding with the 10th September 1805, that the bazar and gunge duties, levied by the officers of Government, in the upper provinces, were ordered to be abolished. The reasons then assigned for the adoption of this measure, and the rules enacted for the purpose, are contained in the preamble and two succeeding sections

Bazar and gunge duties when abolished in upper provinces.

Reasons assigned for this measure in preamble to Regulation 6, 1805.

tions of Regulation 6, 1805, to the following effect. "Whereas the Governor General in Council, by Regulation 38, 1803, abolished all the internal duties, coming under the denomination of sayer, rahdarry, zemindarry, or other denomination, which were formerly levied on goods or merchandize of any description, in the provinces ceded by the Nawaub Vizeer to the Honorable the English East India Company; with the exception of the established duties levied by government in the bazars and gunges in those provinces; and whereas the continuance of the duties levied, on account of Government, on goods and other articles sold in the bazars and gunges in the provinces aforesaid, is authorized by Section 19, Regulation 11, 1804; and whereas it appears, from the reports of the several collectors of the revenue in the said provinces, that the duties levied by government in the bazars and gunges in the provinces aforesaid, both from their number and amount, and from the means afforded for the exercise of oppression and extortion on the part of the native officers employed in the collection of them, are extremely injurious to the commerce and agriculture of the country, and operate as a severe and heavy burthen upon the country; and whereas by the first article of the proclamation, relative to the settlement of the land revenue in the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, published on the 14th day of July 1802, by the Honorable the late Lieutenant Governor and the Board of Commissioners, as well as by Clause Thirteenth, Section 53, Regulation 27, 1803, it is provided, that all engagements for the land revenue, entered into with Government, shall be exclusive of sayer duties, and of all other collections, not connected with the land revenue; and whereas, by Clause Second, Section 35, Regulation 25, 1803, a power is reserved to the Governor General in Council of establishing any internal duties, or taxes, in the said provinces, and to appoint officers, on the part of Government, to collect the same; and whereas, by the same clause, it is expressly declared, that no proprietor of land shall be entitled to participate in the said duties, or taxes, or to make any claim for remission of

assessment on account of the same; And whereas it is essential to the promotion of commerce, and to the relief of the inhabitants, that the duties now levied by Government in the bazars and gunges throughout the ceded provinces should be abolished; and that, in lieu of such duties, town duties should be established, to be levied on the importation of certain articles into the cities and principal towns situated within the said provinces; and whereas it is equally expedient, that the duties levied by Government in the bazars and gunges in the conquered provinces in the Dooab, and on the right bank of the river Jumna, and in the territory ceded to the Honorable the English East India Company in Bundlecund by the Peishwah, should be likewise abolished; and that established town duties should be levied in lieu thereof; the following rules have been accordingly enacted." §2. "From and after the commencement of the Fussily year 1213, corresponding with the 10th of September 1805, the duties levied by Government, on goods and other articles sold in the bazars and gunges, situated within the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, shall be abolished."

Section 2: Rule for abolition in provinces ceded by the Vizeer.

§3. "From and after the period specified in the foregoing section, the duties levied by Government, or by individuals, on goods and other articles sold in the bazars and gunges, situated within the conquered provinces in the Dooab (or country lying between the rivers Ganges and Jumna) and on the right bank of the river Jumna, ceded to the Honorable the English East India Company by Dowlut Rao Sindhea, (with the exception of the city of Delhi, and the territory situated on the right bank of the river Jumna, the revenues of which are assigned to His Majesty Shaw Allum) as well as in the territory in Bundlecund, situated on the right bank of the river abovementioned, ceded to the Honorable the English East India Company by the Peishwah, comprizing the Northern and Southern divisions of the zillah of Saharunpore, the zillah of Allyghur, the zillah of Agra, and the zillah of Bundlecund, shall be abolished."

Section 3: And in provinces ceded by Doulut Rao and the Peshwah.

THE rules contained in Regulation 6, 1805, for establishing a duty upon certain articles, when imported into the principal towns and cities, have been rescinded by Section 2, Regulation 10, 1810; and the rules now in force for levying town duties will be stated under the next head. But the following additional provisions, in Regulation 6, 1805, may be here specified. § 38. "Nothing contained in this regulation shall be construed to authorize the exemption of goods, or articles of trade, from the payment of the government customs established by Regulation 11, 1804; or to exempt persons proceeding on a pilgrimage to Allahabad, Hurdwar, or other places of pilgrimage within the ceded and conquered provinces, from the payment of the established duties levied on pilgrims at such places, on account of Government; or to exempt persons dealing in spirituous liquors, taury, or intoxicating drugs, from the payment of the established taxes on the manufacture and sale of those articles." § 39. "It is further declared, that nothing contained in this regulation shall be considered to preclude the proprietors, entitled thereto, from receiving all rents arising from monthly or annual payments now made, or which may be hereafter made, for the use of land, or for houses, shops, or other buildings, erected thereon; or for orchards, pasture ground, or fisheries, sometimes included under the denomination of sayer, being clearly of the nature of rents, and not duties or taxes. All such rents shall be enjoyed by the proprietors entitled thereto, as heretofore." § 40. *First.* "It having been provided, by the proclamation published by the Honorable the Lieutenant Governor and the Board of Commissioners in the ceded provinces, under date the 14th of July 1802, that all engagements for the land revenue entered into with Government shall be exclusive of sayer duties, and all other duties not connected with the land revenue; and the settlement of the land revenue in those provinces having been formed on the principle above mentioned; zemindars, and other actual proprietors of land, paying revenue to Government, are not entitled to any compensation, on account of the abolition of the sayer duties formerly levied by them in the bazars

Rules for town duties contained in Regulation 6, 1805, rescinded by section 2, Regulation 10, 1810; and rules in force for such duties will be stated under the next head.

Additional provisions in Regulation 6, 1805.

Section 38. The present regulation not to exempt goods from the duties established by Regulation 11, 1804; nor persons proceeding on a pilgrimage from the payment of the established duties in such cases; nor persons dealing in spirituous liquors, taury, or intoxicating drugs from the established taxes on the manufacture and sale of those articles.

Section 39. Nor to preclude proprietors from receiving rents arising from the use of land for shops, houses, or other buildings; or for orchards, pasture ground, or fisheries; being clearly of the nature of rents.

Section 40. Proprietors of land, paying revenue to government, not entitled to compensation for sayer duties abolished under this regulation.

bazars and gunges situated within their respective estates. As the settlement of the land revenue in the conquered provinces, in the Dooab and on the right bank of the river Jumna, and in the territory ceded to the Honorable the English East India Company in Bundlecund, will be formed upon the abovementioned principle, from the commencement of the year 1213 Fussily, the zemindars, and other actual proprietors of land in those territories, paying revenue to Government, will be also precluded from demanding any compensation, on account of the abolition of the duties in question, after the settlement shall have been concluded. It is, however, hereby declared to be the intention of Government to make an equitable compensation to the proprietors of lakheraje or rent free lands, adequate to the profit arising from all duties, collected by them in bazars and gunges, situated within their respective tenures, either under due authority, or by usage commencing previously to the Company's acquisition of the ceded or conquered provinces, according as the land may be situated in those provinces respectively. Persons who have hitherto exercised the privelege of collecting gunge and bazar duties on lakheraje land are accordingly required, in order to enable Government to determine the amount of the compensation to be made to them, to exhibit before the collectors, within twelve months from the date of a public notice to be issued by the collectors to that effect, the titles by which they have levied the gunge and bazar duties collected by them respectively, on proof of their having established the same before the land held by them became subject to the authority of the British Government, together with an account of the annual gross and neat produce of such duties for the ten preceding years; or for as many years of that period, not less than five, the accounts of which can be furnished by the parties concerned." *Second.* "The collectors, on exhibition of the vouchers and proofs offered, shall enter into a full examination of the same, and shall transmit their proceedings to the Board of Revenue, accompanied by an abstract of the gross and neat produce, in every instance in which they shall be of opinion that the right of collection appears to have been

Compensation to be made to the holders of sayer duties, in bazars and gunges situated in lakheraj land, abolished by this regulation.

Publication to be issued by the collectors, and what information and vouchers to be furnished by the holders of the sayer duties abovementioned.

Rules for the collectors in receiving and reporting upon claims to compensations.

been established. In such cases, the collectors shall also state their opinion respecting the amount of the compensation to which they shall consider the claimants to be entitled; regulating the same by taking an average of the neat produce stated in the past accounts, for as many years as the accounts can be procured, not exceeding ten. On the receipt of the reports required, and after calling for any further information which may be necessary, the Board of Revenue shall forward the same, with their opinion on each case, to the Governor General in Council, who will determine on the right of the several parties to compensation, as well as on the mode of making the same." *Third.* "The amount of the compensation to be granted to the holders of the sayer abolished in lakheraj lands, after a determination on their right thereto, in the mode directed by this section, shall be discharged, in quarterly proportions, by the collector of the zillah in which the gunge or bazar, yielding the sayer abolished, may be situated." *Fourth.* "In the event of there being any proprietors of petty bazars and gunges in lakheraj land, situated within the ceded or conquered provinces, whose subsistence has been chiefly drawn from the collections now abolished, and who may be subjected to distress or inconvenience, unless some provision be made for them, during the period which may elapse previously to the adjustment of the compensation to be allowed them, the collectors are empowered, on proof of the situation of persons so circumstanced, to make them such monthly allowance as may appear advisable, to be deducted from the amount of the compensation to which they may finally appear entitled; provided that, in no case, the monthly allowance so given exceed the estimated monthly neat produce of the duties hitherto received by the parties respectively." § 41. "The courts of judicature shall not take cognizance of any claims to compensation, on account of the sayer duties abolished by this regulation, or by any other regulation printed and published in the manner prescribed by Regulation 1, 1803. In cases in which the compensation, on account of the abolition of the gunge and bazar duties in lands exempted from the payment of revenue,

All claims of the above nature to be reported by the Board of Revenue to the Governor General in Council.

The amount of compensations granted under this section to be paid quarterly by the collectors.

Collectors authorized to provide for the support of holders of the sayer duties abolished, in certain cases, to obviate personal distress or inconvenience.

Section 41. The courts of judicature restricted from taking cognizance of claims to compensation on account of sayer duties abolished. Rule for their conduct in such cases.

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revenue, shall have been finally adjusted with the sanction of the Governor General in Council, and payment of the amount which may be due under such adjustment shall be withheld from the person entitled thereto, the courts of adawlut are empowered to take cognizance of any suit which may be preferred to them for obtaining payment of the amount. If the payment shall have been withheld, pursuant to orders from the Governor General in Council, or the Board of Revenue, the judge previously to proceeding to the trial of the suit, shall forward the petition of the complainant to the Governor General in Council, in the same manner as is directed with regard to the cases specified in Section 15, Regulation 2, 1803; that if it shall appear to him proper so to do, he may afford redress to the party, without bringing the suit to a trial.* Suits instituted against Government, under this section, and which may be brought to trial, shall be defended by the collector, who shall commit the pleading of the cause to the vakeel of Government; and in the event of Government being cast, or of the collector being dissatisfied with the decision, he shall report the circumstances to the Board of Revenue, in order that an appeal may be preferred against the decision, if deemed advisable."

Further rule in Section 36, Regulation 6, 1805, for a civil action against persons exacting unauthorized duties.

A FURTHER rule was prescribed in Section 36, Regulation 6, 1805, whereby persons exacting taxes, or duties of any denomination, contrary to this, or any other regulation, were declared liable to prosecution in the civil courts; the judges of which were directed to proceed, as directed in the rule passed for the lower provinces, on the 27th April 1792; except that their power of commuting an unpaid fine to imprisonment was limited to a period of imprisonment not exceeding six months. But the rule of proceeding in such cases, throughout all the provinces, has been altered by Section 39, Regulation 9, 1810, *(for the collection of the Government*

But further rule on this subject, for all the provinces contained in Section 99, Regulation 9, 1810.

* Under the provisions of Section 2, Regulation 2, 1814, the petition of complaint is to be forwarded to the Board of Commissioners, instead of the Governor General in Council, as already mentioned in a preceding note.

customs,)

customs,) whereby "all native persons, not being officers employed by Government in the collection of the Government customs (respecting whom a distinct rule is enacted) or authorized by any regulation to collect customs, or duties, who shall exact customs, or duties, of any denomination, on any pretence whatsoever, whether as principals or agents," are declared guilty of extortion; and on conviction before a magistrate, are liable to a fine, not exceeding two hundred rupees, and to imprisonment not exceeding six months; which may be extended to a further period, not exceeding six months, if the fine adjudged be not paid. The party aggrieved is, at the same time, declared at liberty to prosecute the offender for damages in the dewanny adawlut.

CALCUTTA MARKET DUTIES.

Collections in Calcutta bazars, hauts, and gunges, excepted from abolition of the sayer duties.

Reasons for this exception.

In the rule for abolishing the sayer duties in the lower provinces, which was passed on the 28th July 1790, and has been already cited at length,* "the collections made in the gunges, bazars, and hauts, situated within the limits of Calcutta," were expressly excepted. The general reasons for this exception were noticed in a former volume.† One of them, founded on the consideration of legal difficulties attending the imposition and enforcement of any new taxes within the immediate local jurisdiction of the Supreme Court of Judicature, has been since superseded by an express provision of the Legislature, in the Statute 53. Geo. III. Cap 155. Sections 98 and 99.‡ A second reason for the continuance

* In page 5.

† Volume II, page 222.

‡ The provisions of these sections being of considerable importance, and connected with the general subjects of this Analysis, they are here inserted *verbatim*. Section 98. "And whereas it is expedient that the Governments of the said Company, established at Fort William, Fort Saint George, Bombay, and Prince of Wales Island respectively, should have authority to impose duties and taxes to be levied within the several towns of Calcutta, and Madras, the town and Island of Bombay, and Prince of Wales' Island, and also duties and taxes to be paid by persons subject to the jurisdictions of the Supreme Court of Judicature at Fort William in Bengal, the Supreme Court of Judicature at Madras, the Court of the recorder of Bombay, and the Court of Judicature at Prince of Wales' Island respectively;

continuance of market duties at the seat of Government, when they were abolished in the interior of the country, had reference to the more effectual means of regulating the collection of them, so as to prevent their becoming, in the hands of native agents, a source of vexatious oppression, or the cover to exactions of a different nature; as had been experienced, when the levy of

tively; be it therefore enacted, that it shall and may be lawful to and for the Governor General in Council of Fort William in Bengal, and to and for the Governor in Council of Fort Saint George, and to and for the Governor in Council of Bombay, and to and for the Governor in Council of Prince of Wales' Island, within the respective Presidencies of Fort William, Fort Saint George, Bombay, and Prince of Wales' Island, to impose all such duties of customs and other taxes, to be levied, raised, and paid within the said towns of Calcutta and Madras, the said Town and Island of Bombay, and Prince of Wales' Island, and upon and by all persons whomsoever, resident or being therein respectively; and in respect of all goods, wares, merchandizes, commodities and property whatsoever, also being therein respectively; and also upon and by all persons whomsoever, whether British born or foreigners, resident or being in any country or place within the authority of the said Governments respectively; and in respect of all goods, wares, merchandizes, commodities and property whatsoever, being in any such country or place; in as full, large and ample manner, as such Governor General in Council, or Governors in Council respectively, may now lawfully impose any duties or taxes to be levied, raised, or paid, upon or by any persons whomsoever, or in any place whatsoever, within the authority of the said Governments respectively. Provided always, that no imposition of any such duty or tax, or any increase of any such duty or tax, within the said towns of Calcutta or Madras, the said town and island of Bombay, or Prince of Wales' Island, shall be valid or effectual, until the same shall have been sanctioned by the said Court of Directors, with the approbation of the said Board of Commissioners, in manner herein-before prescribed respecting duties and taxes of export, import, and transit on goods, wares, or merchandize." Section 99. "And be it further enacted, that it shall and may be lawful for such Governor General in Council, and Governors in Council respectively, to make laws and regulations respecting such duties and taxes, and to impose fines, penalties, and forfeitures, for the non-payment of such duties or taxes, or for the breach of such laws or regulations, in as full and ample manner as such Governor General in Council, or Governors in Council respectively, may now lawfully make any other laws or regulations, or impose any other fines, penalties, or forfeitures whatsoever; and all such laws and regulations shall be taken notice of without being specially pleaded, as well in the said Supreme Courts and Recorder's Court, and Court of Judicature at Prince of Wales' Island respectively, as in all other courts whatsoever within the said British territories: and that it shall and may be lawful for all persons whomsoever, to prefer, prosecute, and maintain in the same supreme courts, and Recorder's Court, and Court of Judicature at Prince of Wales' Island respectively, all manner of indictments, informations, and suits whatsoever, for enforcing such laws and regulations, or for any matter or thing whatsoever arising out of the same; any act, charter, usage, or other thing to the contrary notwithstanding."

internal

internal duties, under the indefinite denomination of *sayer*, was left with the landholders, and farmers of the land revenue. The real market duty, or consideration paid by the vender in an open mart, for the privilege of selling his commodity in a convenient and appropriated part of it, was indeed never immoderate; and is not understood to have been any where felt as a grievance. The discontinuance of it, without any express provision for keeping the established market places clean, dry, and commodious, for the accommodation of the venders, may in some instances have exposed them to inconvenience; though, in general, the interest of the proprietors or tenants of adjacent shops, who derive an obvious advantage from the contiguity of a market or fair, has, it is believed, supplied the defect. In Calcutta, the greater part of the bazars are the property of individuals, who pay a certain *jumma*, or assessment to Government, fixed in perpetuity, or for a long period of years. The total number of this description is thirteen, and their collective assessment rupees 10,050. Three of them denominated, from the persons who established them, *Tiretta's* Bazar, *Sherburne's* Bazar, and *Short's* Bazar, are held under grants from Government for 99 years; the two former assessed with 500 rupees each per annum; the latter with 832 rupees.* These grants were made to encourage the construction of substantial buildings, adapted to the convenience of the market dealers, in different parts of the town. Other bazars, which are held on ground belonging to the Company, are let in farm. But these now consist of six only; which are farmed to different persons for five years, at the sum of rupees 7,685.†

Real market duties not understood to have been ever immoderate; or any where felt as a grievance.

Calcutta bazars of two description.

Number and assessment of bazars, the property of individuals.

Other bazars, held on ground belonging to the Company let in farm.

* The detail of the other ten bazars, which are private property, as stated in the public accounts, is as follows.

Burra Bazar, assessed with	Rs. 2031	0	0
Ram Bazar,	701	0	0
Muchwa Bazar,	3009	4	9
Dhurrumtullah Bazar,	2000	0	0
Etalee Bazar,	600	0	0
Haut Sootanooty,	250	0	0
Sook Bazar,	250	0	0
Simleea Bazar,	200	4	13
Bahur Simleea Bazar,	150	0	0
Soba Bazar,	26	8	0

† The Bytukhanah Bazar, farmed at Rs. 3,529 0 0

Bho' Bazar,	3,705	0	0
Cussaetolah, and Dumtolah,	200	0	0
Calingah, and Jan Bazars,	250	0	0

Duty levied by proprietors and farmers from the market venders.

In consideration of the revenue paid to Government, the proprietors and farmers of the several bazars are entitled to levy a duty from the market venders. This duty is not regulated by any prescribed rates; but is settled between the dealers and bazar-holders, according to the article sold and established usage. In a detailed report from Mr. Holwell, on the Company's revenues in Calcutta, dated the 15th December 1752,* he gives the following

* It is printed at length in Holwell's *India Tracts*, page 136; and contains minute information relative to the whole of the Company's revenue at that time collected within the town of Calcutta and its suburbs, (Jaun-nugur, &c.) the extent and population of which are described as follows. "The town of Calcutta is divided into four principal districts, under the denominations of *Dee Calcutta*, (under which Jaun-nugur is included,) *Govindpore*, *Soota Nutty*, and *Bazar Calcutta*; to each of which, and to the great bazar, are appropriated a distinct cutcherry, whose accounts are all transmitted to, and center in the great cutcherry of Dee Calcutta. These four districts contain 5,472½ begas of ground, (each containing 20 cottas) on which the Company receive ground rent at 3 sicca rupees per bega per annum, some few places expected, hereafter to be specified, which pay a less rent. Exclusive of the above 5472½ begas, the Company possess 733 begas, which pay no ground rent. The distribution of ground that pays rent, and that which pays none, is as follows, viz:

Ground rent received on

	Bega.	Cotta.	houses.
Dee Calcutta,	1704	3	3422
Sootanutty,	1861	5½	2374
Govindpoor,	1044	13½	1753
Bazar Calcutta,	560	2¼	989
Jaun-nugur,	228	1½	606
Baug Bazar,	57	17¼	173
Sott Bazar,	10	9	81
Santose Bazar,	5	8½	53
	5472	0½	Pottas, or houses, each pottah, or house, possessing on an average something short of 1 bega and 15 cottas of ground, i. e. 1¾ bega. 9451
	733		
Total of the Company's ground.	7205	0½	

Ground in which no rent is received.

	Bega.	Cottas.
Ground occupied by the Company,	310	5½
Donations,	16	11
Churches,	7	19
Mosques,	15	7½
Gentoo Idols,	13	13
Given to sundry Bramins,	242	0
Ditto to the Gentoo Poor,	14	12
Ditto to the Moors ditto,	30	15
Grounds bought by devout persons to make tanks,	62	18½
Indulgences,	18	10½
Bega	733	0

"Within the Company's bounds there is also ground possessed by proprietors, independent of our Government, to the amount of about 3050 begas, according to the exactest estimate I can at present make, viz.

The district of Simleea,	1000
Molunga,	800
Mirzapoor,	1000
Hogulcourea,	250
	3050

These 3050 begas, calculated agreeably to the foregoing proportion, will be found to contain 5267 houses; which, added to those under the Company's protection, will make the whole amount of houses 14,718. I add them together, because they equally

ing statement of the *sootanutty* market; which, with soba bazar in its vicinity, was then farmed at the sum of current rupees 7510, including an import duty on certain articles which has since been transferred to the custom house.

"Sootanutty market is held twice a week, viz. on Thursdays and Sundays, on which a duty is collected by the farmer, viz. Retailers of cowrees, oil shops, milk ditto, cotton thread, hard-ware shops, jaggree ditto, apothecaries ditto, tyar ditto, sweetmeat ditto, smiths ditto, braziers ditto, roasted rice ditto, silversmiths ditto, beetlenut ditto, weavers ditto, beetle ditto, greens ditto, potters ditto, chunam ditto, sugar canes ditto, salt ditto, tobacco ditto, plantain ditto, cloth ditto, firewood ditto, tamarind ditto, rice ditto, straw ditto, cocumbers ditto, venisons ditto, matts ditto, fishmongers ditto, shoemakers ditto, bamboos ditto, trees ditto, paddy ditto."

"These several articles have an established charge or rate, from one gunda of cowries to six pun per diem, on each shop,

equally contribute to the consumption of those articles, on which the Company's revenues arise. The independence of the above four districts arose from the towns originally belonging to different proprietors; and when the Phirmanud gave us a grant to purchase these towns, with the restriction of satisfying the Zemindars, some of them could not be prevailed upon to alienate theirs: so that in consequence they have remained distinct and independent ever since. The proprietors of the above 14,718 houses, for distinction sake, I will call principal tenants, or holders of pottas; who have again their lodgers or under-tenants, within the limits of their respective pottahs, in the following proportion on an average, agreeably to the exactest judgment I can make, as well as the best information I have acquired; viz. each principal pottah-holder, who possesses 1 bega of ground, has five under-tenants who hold of him; therefore, adding the 3050 begas contained in the four independent towns, to the 5422 begas, the property of the Company, the whole amount of begas will be 8522; and this again multiplied by six, will give the number of houses that are properly in Calcutta, viz. 51,132; and this sum again multiplied by 8, a very moderate estimate of the inhabitants contained in each house, it gives the number of souls in Calcutta, viz. 4,09,056 constant inhabitants, without reckoning the multitude that daily come in and return; but yet who add to the consumption of the place. I will trouble your honour, &c. at present on this subject: no further, than just to reduce the bega into English measure; and point out to our honorable masters the extent of ground they possess in this settlement. The bega is in length 126¼ feet, which, multiplied into itself, gives 16,002 square feet in a square bega. An acre contains square feet 43,560. Therefore a bega is to an acre, as 367 to 1000, or as 11 to 30."

bundles

bundle, bag, or piece, according to the different value and species of goods."

"Gram, Horse ditto, Mustard Seed, Wheat,	Imported from Hoogly, and other places up the river, pays 6 gundas of cowries on each rupee."

"Oil, ghee, gram, wheat, &c. imported from Arung Gotta, each boat 3 Madras rupees. Gram imported from the country round pays 6 pice on each sicca rupee, or 3 rupees, 2 per cent."

Sugar, on each bag, - - -	2 Annas,
Ghee, on each dupper, - - -	6 ditto,
Honey, on each ditto, - - -	2 ditto."

"Coarse piece goods pay a duty from 4 to 15 gundas on each piece. Rice retailers pay 15 chitants, or $\frac{1}{12}$th of a seer, on each rupee worth. I have been the more particular on this market, that I may not be under the necessity of specifying so minutely the articles on which the duty is collected in the other markets and bazars, as they are nearly the same; and the same estimation of duty will in general hold with very little difference. Only, for the information of such of our honorable masters as have not been conversant with these parts, I will add, that a gunda is 4 cowries; 20 gundas 1 pun; 16 pun 1 cawun; and 2 cawun, 10, 12 or 13 pun (according to the value of cowries) make one rupee arcot."

The talookdarry right in the village of Sootanutty (part of the Company's original purchase in 1698) with its market, and some contiguous lands and bazars, were granted in the year 1777 to Maharajah Nubkishen, subject to a certain annual revenue, in exchange for the village of Nowparah, and other villages belonging to the Rajah. But a scrutiny of the collections in all the Calcutta bazars, which was made by myself, as acting collector of the town, in the year 1788, shewed the actual rates of duty, collected in the different bazars, to vary as follows:

1. *Turkaree*, or esculent herbs collectively, from 1 pun, 15 gundas, to 10 gundas, per vender.

2. *Pulwul*

2. *Pulwul* and *Kurela*, when these plants are sold by separate venders, from 1 pun, 15 gunda, to 1 pun.
3. Plantains, from 1 pun, 15 gunda, to 1 pun, 2 gunda, per vender.
4. Firewood, per *garee*, or cart, from 7 to 3½ pun; per bullock-load, 17 to 10 gunda; per *koolee*, or man's burden, 1 pun, to 10 gunda; or per vender, 2 pun, to 10 gunda.
5. Fish, per *mun*, of 80 pounds, from 8 to 2½ pun.
6. Rice, per bullock-load, from 3 *séer* to 10 *chutak*; or per retail vender, from 1 pun, 12 gunda, to 12 gunda.
7. *Pan Sooparee*, or betel leaf and nut, from 4 pun, to 10 gunda, per vender.
8. Beads and small cutlery, 10 gunda, per vender.
9. Shoes and slippers, from 1½ pun, to 10 gunda, per vender.
10. Tobacco, prepared for smoking, from 1 pun, 17 gunda, to 10 gunda.
11. Sweetmeats, from 2 pun, to 10 gunda, per vender.
12. Parched rice, peas, &c. from 1¼ pun, to 7 gunda, 2 cowries, per vender.
13. Cowries, per bag, or koolee load, from 12½ to 10 gunda.
14. Curdled milk, (*duhee,*) from 2 pun, to 10 gunda, per vender.
15. Oil, from 2 pun, to 10 gunda, per vender.
16. Fruit, of kinds, from 2 pun, to 12½ gunda, per vender.
17. Earthen-ware, from 2 pun, to 10 gunda, per vender.
18. Plantain and lotus leaves, from 2 pun, to 10 gunda, per vender.
19. Moistened chunam, prepared for eating, from 2 pun, to 10 gunda, per vender.
20. Mustard seed, after the oil has been expressed, per *tungee*, or double bag, from 1½ to 1 pun.
21. Indian corn, (*bhootta,*) 1 pun, per vender.
22. Fans, (*punkha,*) 1 pun, per vender.
23. Blankets, (*kummul,*) 10 gunda, per vender.
24. Sylhet mats, (*seetul patee,*) from 15 to 10 gunda, per vender.
25. Common mats, (*suf*, *boriya*, or *chutaee,*) from 2 pun, to 1 pun, per vender.

26. Coarse cloths, from 1 pun, 5 gunda, to 10 gunda, per vender.
27. Cocoanut hookas, from 2 pun, to 5 gunda, per vender.
28. Hemp twine and flax, from 2 pun, to 10 gunda, per vender.
29. Small millinery, silk, ribbons, &c. from 1 pun, to 10 gunda, per vender.
30. Flowers, from 1½ pun, to 10 gunda, per vender.
31. Cotton, (*roo,ee,*) from 1¼ to 10 gunda, per vender.
32. Cotton thread, (*soot,*) 10 gunda, per vender.
33. Spices, from 2 pun, to 10 gunda, per vender.
34. Turmeric, red pepper, and onions, from 1½ pun, to 10 gunda, per vender.
35. Tooth-powder, (*missee,*) from 1 pun, to 10 gunda, per vender.
36. Sundry articles of brasiery, from 1 pun, to 10 gunda, per vender.
37. Common bracelets, (*chooree,*) from 1 pun, to 10 gunda, per vender.
38. Small boxes, 10 gunda, per vender.
39. Medicinal roots, 1¼ pun, to 10 gunda, per vender.
40. Cow-dung, per koolee-load, from 1 pun, to 10 gunda, per vender.
41. Salt, from 1 pun, to 10 gunda, per vender.
42. Matches, (*diya silaee,*) 10 gunda, per vender.
43. Charcoal-balls, prepared for hookahs, 10 gunda, per vender.
44. Dried-grass, per double bag, from 1½ pun, to 12½ gunda.
45. Treacle, from 2 pun, to 10 gunda, per koolee-load.
46. Sugarcane, per bullock-load, from 3½ pun, to 12½ gunda.
47. Bamboos, per bullock-load, from 1½ pun, to 12½ gunda.
48. Cages of birds, 8 pun per cage.
49. Baskets and other wicker-work, from 2 pun, to 10 gunda, per vender.
50. Fowls, geese, ducks, and pidgeons, from 5 gunda, to 1 gunda, for each bird.
51. Eggs, 1 pun, per vender.
52. Goats and sheep, 10 gunda for each.
53. Oxen and other horned cattle, 2 pun each.
54. Snakes for hookahs, 10 gunda, per vender.

55. Common

55. Commom umbrellas, 10 gunda, per vender.
56. Stone-ware, 10 gunda, per vender.
57. Potatoes, per double bag, 1½ pun; or 10 gunda, per vender.
58. Iron-work, from 2 pun, to 10 gunda, per vender.
59. Cakes and fritters, from 1 pun, to 10 gunda, per vender.
60. Stall for shaving barber, 10 gunda, per diem.

A LETTER from the collector of the town (Mr. SCOTT) to the Committee of revenue, dated in March 1785, contains the following information relative to the bazar duties. "The collection in the bazars consists of a rent called *tehbazaree*, and *tolah*, paid daily by each of the bazar ryots, for the privilege of retailing articles in the Government bazars. The first was established by Mr. AMYATT at 12 gundas, 2 cowries for each ryot;* of which 2 gunda, 2 cowries, is a donation of birt to bramins. The tolah was formerly a customary collection in kind; but from a report to the Calcutta committee in January 1779, by the dewan, it appears that it had been some years before commuted for money. The rate of this collection has never been fixed by Government. It has always been settled by mutual agreement between the bazar farmer, and ryot; and in all disputes on the rate collected, the complaint is decided from former custom" This mode of adjustment is still in force; and from the competition and separate interests of the proprietors and farmers of the several bazars in Calcutta, situated at no great distance from each other, there is no danger of any oppressive combination or exaction. The stated distinction between *tehbazaree*, and *tolah*, has however long ceased; and there could be no use in continuing it, after the tolah had been converted to a money payment, in common with the tehbazaree. Mr. SCOTT mentions the duties collected, as paid for the privilege of retailing articles in the *Government* bazars. But on the 25th May 1781, the Governor General in Council, in concurrence with an

* This is doubtful. The native officers, from whom I made inquiry in 1788, stated it to be generally understood, that exclusive of birt, or charity, included in the tehbazaree, the rate of this tax was 3 gundas, 1 cowree only, till the establishment of the *chokedaree*, or police tax, in 1773; when it was increased to 10 gunda.

opinion

opinion of the Committee of revenue, declared "the right of Government to suppress the erection of bazars, by private persons, without its authority; as being conformable to the immemorial usage of the province; and of the town of Calcutta, till within a very few years, that the licentiousness of the inhabitants had encroached on it in one or two instances;" and on the 21st September of the same year, in consequence of a representation from certain shop-keepers, objecting to the payment of duty upon the articles sold by them on their own premises, since the removal of bazars and shops from the streets of the town by a late police ordnance, it was determined by the Governor General in Council, "that goods exposed to sale in dokauns, or shops, the property of individuals, be not made subject to the payment of duties in like manner as when the same articles were exposed to sale in the streets; or on the Company's ground; but that the bazar imports be levied from the public bazars; and from the stalls and shops situated on the Company's ground, as heretofore."*

Besides

* A question having arisen upon the construction of this decision, the collector of Calcutta was desired, in September 1787, to ascertain and report the grounds of the distinction made in it, for the final orders of Government, and it may be useful to insert the following extract from my report, as acting collector, dated the 8th April 1788, with the subsequent determination of the Governor General in Council, passed on the 21st of the following month. "To understand fully this decision, I examined the origin of the discussion, and find it arose from a representation of sundry shop keepers, who complained of the execution of an order passed by the Committee, on the 29th June 1781, directing the Collector of Calcutta to suppress all such shops, bazars, and hauts, where articles subject to duties are exposed to sale, upon refusal of the parties to pay the established duties. This order appears to have been founded, as well on a report from the collector of Calcutta, that there were "a number of detached shops on ground the property of individuals, in which articles subject to bazar duties were exposed to sale, the owners of which refused to pay any duties, wherefore he proposed to compel them to pay, or to abolish them," as also on a letter from the Governor General and Council, dated the 25th May, antecedent, confirming the justice of an opinion given by the Committee on the right of Government to suppress the erection of bazars by private persons without its authority, declaring it conformable to the immemorial usage of the province, and of the town of Calcutta, till within a very few years, that the licentiousness of the inhabitants had encroached upon it in one or two instances, and directing the committee to support it. The grounds on which the shop keepers complained were explained to the Committee, by the Collector of Calcutta, in the following terms. "When the bazars were held in the streets, the dokaundars

Notice of other collections, besides the market duties, formerly made in the town of Calcutta.

BESIDES the proper bazar or market duties which have been described, and which alone are now authorized, with the *town duties* and *customs*, mentioned in the two following sections, various other collections, of a more exceptionable nature were formerly

dokaundars contiguous used to erect stalls in them, independent of their dokauns; from these stalls the tehbazaree duty was collected, and not from the dokauns; for where a dokaundar did not set up a stall in the street, or on the Company's ground, he did not pay any duty. The bazars having been removed from the streets, by virtue of the late ordinance, the shop-keepers object to the duty which they formerly paid in consequence of their having kept stalls in the streets." On this arose two questions, pointed out by the collector, and submitted by the Committee to the Council. *First.* Whether duties should be collected from articles exposed to sale in dokauns, erected on ground the property of individuals; the same kind of articles having formerly paid duties when exposed for sale on the streets, or on the Company's ground. *Secondly.* Whether dokauns in gullies or bye-lanes, where there never was any bazar, should be considered in the same light as the dokauns situated in the large streets, where formerly bazars were held. These questions were accompanied with the following reasoning and opinion from the Committee. "The venders formerly were situated on the Company's ground or in the streets, and paid no duties, but on the sale of their commodities. The operation of the bye-law has removed them from the streets; and they are either obliged to make shops of their own houses, situated in their own ground; or to hire shops from others; and be subject to the payment of rent, as well as to the tax imposed by the bye-law. If the dokauns should be subject to pay duties on such articles as have usually been taxed, the proprietors or possessors will in fact be subject to new duties, although they are debarred a privilege which they formerly possessed; that of vending their commodities on the Company's ground. Our opinion on the whole is therefore that the dokauns, as described in the question, should not be made subject to the payment of duties; but that the bazar imposts should be levied from the public bazars, as usual; or from the stalls and shops situated on the Company's ground only." Having already quoted the decision of the supreme Board on this reference, dated 21st September 1781, coinciding exactly with the opinion of the Committee, I will only subjoin the contents of the letter from the former. "We consider the right of the Company to have been founded principally upon the collection of articles either in the bazars, or upon the Company's ground: In either case by this decision that right is preserved." Here the public bazars being expressly distinguished from the Company's ground; and the collection of duties authorized on both; it appears to me evident that Mr. Seton was right in his construction of the order, as exempting only goods exposed to sale in shops, the property of individuals; and not goods sold on private ground, when the site of a public bazar. The owner of such ground voluntarily lets it for the purpose of a bazar; and as Mr. Seton observes, probably gains an advanced rent. But independently of this, Government, who have declared their right to the revenue of bazars, and to suppress them when established by individuals without authority, must either appropriate untenanted, i. e. Government ground for their bazars, or tenanted ground. Having little of the former, they must necessarily supply the deficiency by the latter; either by hiring it, or by farming out

Detailed in Mr. Holwell's Report of 15th December 1752.

A road duty.

formerly made within the town of Calcutta. A full detail of them may be seen in Mr. HOLWELL's report of the 15th December 1752. Besides duties on bazar imports and exports; and the *touldary*, or weighman's duty, he mentions "a road duty, which had

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out the bazars to the proprietors of it: unless they prefer extending their Government land, by purchase. The hiring ground is objectionable on account of the high rent demanded for spots convenient for bazars; on account of the uncertainty of the tenure, which leaves it in the power of the landlord at any time to remove the bazar, and also prevents improvements; and also as tending to confine the extent of the market places, to the inconvenience of the dealers. The farming out bazars to the proprietors of the land, appropriated for them, is objectionable, as preventing a competition of bidders and consequent increase of revenue; since the farmer could not be changed without a change of the site of the bazar; and if the lease be for a short period, is subject also to the inconveniences of hired ground, derived from uncertainty of tenure. With the stipulation of a new hustabood and proportionate assessment, every five or ten years, this mode perhaps might be adopted, without much disadvantage. The purchasing additional Government land, sufficient for a certain number of principal public bazars, appears to me liable to no objection, but the prime cost; and counterbalanced by great advantages. It would save the loss of enhanced rent. It would, by its permanence, admit any improvement which might occasionally present itself for the convenience of the dealers. It would enable Government to reap annually, quinquennially, or decennially, the benefit of augmented produce, from an augmentation of inhabitants or decay of private bazars; and by regulating the rates of collection, it would empower them also to regulate the rates of bazars granted to individuals, without restriction in this particular, as the proprietors would be compelled by their interest to conform to the standard of other markets, equally convenient with their own. On a cursory calculation, I compute that ten begahs of ground would be sufficient for five principal bazars; and that this quantity, at the average price of 200 rupees per cottah, might be purchased for 40,000 rupees. These bazars should, I think, from their situation, be the *Burrâ*, *Muchwâ*, *Bhô*, *Dhurumtullah*, and *Bytukhanah*. The two first would supply the north parts of the town, west and east; the two next the south west and central parts; and the last the south eastern; Chouringee excepted, where a new bazar might be established, if found expedient. This however would of course be ascertained with accuracy, should the purchase be approved; as well as the exact expense. I need not say the plan might be adopted partially, or generally, as deemed most suitable to prevent circumstances. The ground, after purchase, must of course, be drained; and should, I think, be enclosed, either with a wall, or mats. I cannot venture to propose any brick buildings; though such would undoubtedly tend much to the ease and convenience of the market people; as the expense would be so considerable, as to be deemed an objection, I conceive, in the present state of the Company's finances. Should prosperity however hereafter admit of it, without inconvenience, I hope they will be erected, both for the health and ease of a numerous class of industrious subjects. In the mean time they will not be dissatisfied with free space, and permission to raise small slight sheds to preserve their goods; and shelter themselves from the inclemencies of the weather." The Board of Revenue, in

had its rise on this occasion. *Collegat* market and *Govindpoor* market being held both on a Saturday; and numbers of the tenants resorting to Collegat market, to the injury of that at Govindpoor, it was found necessary to check this resort, or counterbalance it, by levying a tax on every article imported from Collygat, in proportion to that levied on the same articles at Govindpoor market." He also specifies the following monopolies, let in farm, with their medium produce in past years. 1. The *glass-maker's farm;* medium produce from 1738 to 1745, 404 rupees. "To the farmer is granted the sole right of manufacturing this article; and whoever is proved to set up any shop, or otherwise interfere in it, without his license, is liable to fine and imprisonment" 2. The *vermillion farm;* m. p. 823 rupees. "The sole manufacturing of this article is also granted to the farmer, as above." 3. The *caulker's farm;* m. p. 823. "The

Monopolies specified by him.

in forwarding to Government the letter, from which the above is extracted, expressed their sentiments, as follows: "On the general right of Government to the market duties in the public bazars, and on the utility, as well as urgent expediency, of purchasing ground for the purpose of public bazars, we have only to remark that we concur entirely with the Acting Collector in his reasoning on both; and we are the more desirous of calling the attention of your Lordship in Council to the latter point, from the decline of the collection since the establishment of convenient bazars by Messrs. Sherburne, Tiretta, and Short, granted on long leases at a low quit rent, and the probability that they will still continue to diminish unless the dealers find sufficient accommodation in the bazars of the Company: Whereas, on the contrary, we conceive that such accommodation would tend considerably to their improvement." The Governor General in Council concurred with the Board of Revenue; and communicated his final decision, in a letter dated the 21st May 1788, from which the following is an extract. "We concur entirely with you and the Acting Collector, that the right of Government to levy duties in all public bazars ought to be maintained; and care must be taken that no point is conceded, or act done, that can be construed to be a relinquishment of it. You will further instruct the Collector to ascertain the value and quantity of the ground required for public bazars; that it may be purchased and appropriated to that use." It may be added that the expence of purchasing and walling in ground for five principal bazars, as proposed, being found too considerable for immediate disbursement, it was determined, (in April 1789,) to commence with the Bytuckhanah bazar, as an experiment. A convenient spot of ground was accordingly purchased, and walled in, for that bazar, at an expense of about 12,000 Rs. in return for which the revenue has been increased from some what below 2000 Rs. per annum, the average collection of former years, to Rs. 3520; at which sum, it is now let in farm. The successful result therefore appears to warrant an extension of the measure to such of the other bazars as are still in the hands of Government.

right

right of exercising the ship-caulker's business is solely invested in the farmer, who gives his license to the workers; and receives a stated tax from them, of 1 pun of cowries per diem; and 10 gundas on each rupee their labour produces." 4. The *tobacco-shops;* "not farmed till the year 1740;" medium produce from that year to 1746, 125 rupees. "The farmer has the sole right of vending this article in the bazars; and no shop can sell it that is not licenced by him." 5. *Bang shops;* m. p 1675. "This farm is conducted on the same restrictions with the tobacco shops." 6. The farm of the *chest-makers;* "not commenced till the year 1748," and yielded on a medium from that year to 1752, 327 rupees. "Every person employed in this business is in the service of the farmer, or works by his license." 7. The *red-lead farm,* "subsisted only since 1746. The article of *lapis tutiæ* now added to it." m. p. 181 rupees. "The sole right of this manufacture is appropriated to the farmer; nor can any one engage in it without his license; for which he receives 2 rupees per mensem, for each furnace." 8. The *dammer* and *oakum* farm; m. p. 523 rupees. "The sole right of vending these articles is vested in the farmer; and none can deal in them without his license." 9. Dee Calcutta and Govindpoor's *burdened oxen!* m. p. of farm 211 rupees. "Every person who keeps oxen for burden, within the districts of Dee Calcutta and Govindpoor, pays annually a tax to the farmer, of 6 annas each." 10. Dee Calcutta and bazar Calcutta's *ferry boats;* m. p. 152 rupees. "The farmer of the ferry-boats of Dee Calcutta and bazar Calcutta receives, for each passenger, 4 gundas of cowries; for each basket of greens, &c. 10 gundas; for each cow, calf, horse, &c. 1 pun." 11. The *firework farm;* m. p. 66 rupees. "The manufacturing and vending all fire-works are invested in the farmer; who gives his licence to others, on receiving a consideration satisfactory to the parties." 12. The purchasing and vending old iron, tea-caddies, and old nails; first farmed in 1761 for 60 rupees; its pottah (or lease) expired the 1st instant; and then sold for rupees 565."

Some

Some of the monopolies abovementioned, viz. the first, fifth, seventh, and eleventh, were continued to so late a period as the year 1788; when they were abolished by Government at my suggestion, whilst acting collector of the town.* It was also found at the same period that the farmers of the bazars, not satisfied with the regular market duty which they were entitled to collect, had people stationed in the principal roads, leading to their respective bazars, and levied an exaction, commonly in kind, from the dealers passing to other bazars, or to houses in different parts of the town. These exactions, as soon as they become known to me, were publickly forbidden, as being in opposition to repeated orders of Government; and with the sanction of the Board of

Some of the monopolies abovementioned not abolished, till the year 1788.

A transit duty exacted at the same period on the public roads.

Measures adopted to prevent any similar exaction in future.

* They were then included in the farm of the *burra bazar*, &c. and estimated to produce between three and four thousand rupees per annum. The following is an extract from my report, dated 8th April 1788, on the subject of them. "The monopolies included in the general farm of burra bazar, &c. are the following. The *ganja mehal*, *sindoor-tootea* mehal, *sheesheh* mehal, and *atush bazee* mehal. The farmers have the exclusive sale of ganja, crude and prepared; of redlead and blue vitriol; of glass; and of fireworks. After the repeated declarations of the Honorable the Court of Directors, that except in certain articles of magnitude provided by the advances of Government, they do not wish to engross any part of the internal trade that may be carried on by individuals paying a suitable duty, and their occasional orders for the promotion of free trade, prohibition of monopolies, and encouragement of arts and manufactures, I cannot but recommend the discontinuance of these exclusive farms, which can only be regarded as monopolies. Considering further their baneful influence, in destroying competition, shackling commerce, and enhancing profits at discretion, but above all, in fettering liberty of action in the choice of means for an honest livelihood, I venture earnestly to solicit their abolition; the more especially as I conceive it may be effected, without loss of revenue to Government. Ganja, blue vitriol, and glass, and the rude materials of redlead and fireworks, are all imported into Calcutta. An additional import duty therefore, levied by the Calcutta custom master, would afford the same revenue to Government; and at the same time leave the articles to be sold at the discretion of the dealers, without restriction of persons: and at a price regulated, in common with other articles of commerce, by the demand and importation only; free from the fluctuating unrestrained control of a monopolist. With respect to ganja in particular, which is not only a luxury, but an article of intoxication, I conceive it would be impolitick to give up the present duty on it, as it might occasion a diminution of its price, productive of pernicious effects. The duty might be continued as on spirituous liquors in England, by levying an annual fine on licenses for the sale of it; but this mode favors the great dealer to the prejudice of the smaller one, and appears to me less simple and unobjectionable than the import duty before suggested; which could not be levied in England where inland customs do not prevail."

Revenue, the several farmers, on a renewal of their engagements for the ensuing year, were bound, under a heavy penalty, "not to continue or suffer a continuance of these collections in future."

Third head of revenue of the town, noticed by Mr. Holwell.

Mr. Holwell, under a "third head of the revenues" of the town of Calcutta, in 1752, notices the following eighteen distinct articles. 1. *Duty on piece goods;* being a duty of 2 per cent on all piece goods sold in the bazars; and not imported under the Company's dustuck. 2. *Fines.* On this article Mr. Hollwell observes "The article of fines is a very important one in the Company's revenues, if duly brought to their credit. This method of punishing, as well as the lash, is so essential a one, in the nature of the country government, that there would be no order or rule preserved amongst the natives without them. The original institution of fines in all countries was doubtless with a design of correcting the manners of the people; of being a check on such kind of rogueries as did not require the lash, or other corporal punishments; and consequently of being a defence to the property of honest men. But I am sorry to say I have too much reason to think these intentions have been kept very little in view; and a power assumed to inflict fines, and oppress the people, where by no means it ought to have been allowed; and which has been raised from motives much worse, and applied to baser uses, than were the crimes for which it was imposed." 3. *Etlack*; of which the following account is given—"On every complaint registered in the cutcherry, a peon is ordered on the defendant, in cases of debt; or on the delinquent, in case of assaults, or other abuses. The peon receives three puns of cowries per diem; one pun fourteen gundas of which are brought to the credit of the Company, under the head of Etlack: one pun is the peon's fee, and the remaining six gundas were set apart; out of which the Etlack *Moories*, or writers, were paid their wages; and the overplus, called *Mooriannoes*, sequestered to uses I am a stranger to. The article of Etlack has always been a heavy tax on the poor, from

from whom it has chiefly been collected; whilst those who could by any means obtain favour were excused, though well able to pay it. The contrary method I have pursued, as much as possible; and your honor, &c. will observe in the zemindarry, how frequent occasions I meet with to remit this fee to the poor, as well to those who are released from the prisons, as those whose disputes are determined without imprisonment. The cutcherry prison Etlack fees, and cutwal prison Etlack fees, amount each to three puns of cowries per diem, from each prisoner; the whole of which is brought to credit. The Etlack fees have by some zemindars been raised to four puns per diem, and by others reduced to two. The present establishment appears to me the most eligible medium; as the former would be a very heavy oppression on the poor; and the latter would too much tend to keep up that litigious spirit in the people, which possibly is not equalled by any race existing. 4. *Sale of boats and sloops*; which is thus explained. "On the sale of houses, boats, sloops, and all sums recovered by decree or award in the cutcherry, the Company draw a commission of five per cent." 5. *Sale of slaves*; "On every slave bought and registered in the cutcherry, the purchaser pays a duty to the Company of four rupees four annas." 6. *Pottahs.* On every pottah granted, the Company receives a salamy of 4 rupees 4 annas. 7. *Arbitration bonds.* "On all arbitration bonds entered into by appointment, in the cutcherry, each party pays 20 puns of cowries." 8. *Commissions on recovery of debts.* The rate of these is not specified. 9. *General releases.* "On every general release, executed by order of the cutcherry, each party pays 8 annas," 10. *Mortgage bonds.* On every mortgage bond, registered in the cutcherry, the Company receive from the mortgagee five per cent, on the sum advanced by the mortgagee." 11. *Marriages.* "For every licence of marriage, the Company receive three rupees sicca from each party; but the poor are often remitted this fee." 12. *Russey Salamy.* "On all disputes between the Company's tenants, touching the property of ground, where there appears

pears cause for measuring their respective grounds, each party pays a russey salamy of one rupee." 13. *Salamy on Sloops.* "On every new sloop built by the natives, the Company receive a salamy of 50 rupees to 100 rupees, according to her burden." 14. *Morriannoes*: already noticed under third head. The word seems to imply the dues of *mohrirs*, or native writers and accountants. 15. *Duty on exportation of liquors.* This is apparently a mistake as the explanation given is, that "On importation of Batavia, and Armenian arrack, not again exported, the Company receive a duty of 2 rupees 4 annas, per leaguer." 16. *Licence for a treat.* No explanation is given of this article. 17. *Order for beat of drum.* "On every order for public notice by beat of drum, account the loss of a slave, cow, horse, &c. the Company receive one cawun and one pun of cowries, from the party requesting such public notice." 18. *Duty on exportation of rice.* "On all rice exported, the Company's duty is 1 seer, 8 chs. per maund, and has produced for the last six years, from rupees 1129, to rupees 4537, per annum."

The exceptionable items in the above list have been discontinued.

THE exceptionable items in the above list having been discontinued, it would be useless to enlarge upon them; though it appeared proper to notice them in this section of my Analysis, which relates partly to the *Sayer duties* abolished, as a specimen of the collections formerly made under that head.* The bazar duties which have been described, and the land revenue, or ground rent, amounting in the current year to 18,624 rupees, (inclusive of Dhee Simleah, Jannugur, and Rajnugur, situate partly without the town) with the established pottah and measurement fees, when the lands of individuals are measured and new pottahs granted, constitute the only taxes now levied from the inhabitants of Calcutta, through the collector of the land and sayer revenue. The *Chokeedaree* tax, which was established in 1773, for expenses of

What taxes are now levied from the inhabitants of Calcutta, by the collector of the town.

The chokeedaree tax, formerly collected with the land revenue, discontinued in 1794.

* A further detail of them may be found in Mr. T. Law's publication, entitled "A sketch of some late arrangements; and a view of the rising resources in Bengal:" particularly under the head of *Internal Taxation.*

the

the police,* and was formerly collected with the land revenue, at the rate of 5 or 4 rupees per begah, according to the situation of the land, on the west or east of the great road, which runs north and south from Chitpore to Chouringee, was discontinued in the year 1794; when in pursuance of the Statute 33. Geo. III, Cap. 52, § 158, an assessment of five per cent upon the rent of dwelling houses, and ten per cent on the rent of shops, was established by the Justices of the Peace, for defraying the expence of *repairing, watching, and cleansing*, the streets of the town. The gross amount collected on this account in the year 1814-15, was Sa. Rs. 1,78,757.† The following sums, received through the Justices of the Peace at the presidency, are also credited to the Police in the official accounts of the same year; besides a more considerable sum, on account of *licenses for the sale of spirits*, which will be mentioned under a future head.

Assessment on house and shop rent then established, by the Justices of the Peace, under the Statute 33. Geo. III, Cap. 52. § 158.

Amount collected in 1814-15.

Other receipts, through Justices of the Peace credited in the same year.

" Fees on sealing weights and measures. ‡..... 13,079

* The origin of this tax is detailed in the proceedings of Government, in the Public Department, under dates the 26th November 1772, and 17th June 1773; and in those of the Revenue Department, dated the 29th June 1773. It appears to have been established, with the concurrence of the inhabitants, to support the expense of a new plan of Police; which was generally desired, and carried into effect under the successive superintendence of Messrs HOSEA and PALK. The annual amount, at the rates stated, was some what less than 30,000 Rs.

† An abstract of the *Assessment Regulations*, under which this sum is levied, may be seen in the *Calcutta Annual Register and Directory*.

‡ This fee, at the rate of four annas, on each set of weights and measures used in the different bazars, within the town and suburbs of Calcutta, is levied four times in the year, when the weights and measures are examined and sealed by order of the Justices of the Peace. This duty was formerly performed by the clerk of the market; but on the abolition of that office, in the year 1801, it was transferred by direction of the Governor General in Council to His Majesty's Justices of the Peace for the Town of Calcutta; (with instructions dated the 1st April 1801,) to regulate the fee "in such a manner as to provide an adequate fund for defraying the expences incurred in the performance of the duties of the office." The Justices accordingly proposed to raise the fee from 11 pun 5 gunda, to 4 annas per set of weights and measures; "and as a further check to fraud and imposition in the public markets, and at the same time to create an adequate fund for defraying the expences of the proposed establishment) 316 rupees per mensem) that the weights and measures should be sealed four times in the year, instead of twice." This was sanctioned by Government on the 25th May 1802. Of the amount stated, the sum of 10,602 rupees was received for sealing weights and measures, within the town, from the 1st May 1814, to the 30th April 1815. The sets of weights and measures in actual use in Calcutta, may therefore be calculated at a corresponding number, by allowing one rupee for each set.

"Fees and fines of the Justices.* 9,523

Section concluded with extract from Bengal Military Regulations forbidding the exaction of any tax, duty, or dustooree, in Military bazars.

I SHALL conclude this section with the following extract from the Bengal Military Regulations, containing copies of General Orders relative to the Military bazars, which were passed by the Governor General in Council and Commander in Chief, in January and February 1811; and are still in force.

General Order by the Governor General in Council, 15th January 1811.

General Order by the Governor General in Council, 15th Jan. 1811.

"No tax, duty, or dustooree, whatever, is to be levied under any pretence in station bazars, or the bazars of corps, on articles for their supply, or on the persons attached to them, or in any other manner whatever: and, with a view to secure the most rigid observance of this Regulation, The Governor General in Council deems it proper to announce the resolution of Government to suspend from the service any officer who shall be convicted of an infraction of it, by a competent tribunal. This prohibition, however, does not regard the town duties or customs levied on account of Government, by the collectors of revenue and customs, in bazars situated within the limits in which such customs and duties are to be collected, comformably to the regulations of Government, which are in no way affected by this order."

General Order by the Commander in Chief, 13th February 1811.

General Order by the Commander in Chief, 13th February 1811.

"THE Commander in Chief enjoins the most implicit obedience to the directions of Government contained in the general orders under date the 15th January 1811; and His Excellency feels it to be his duty to certify to the army, in the most explicit terms, that officers who shall under any pretence levy any tax, or duties of any description whatever, in the bazars subject to their controul, and for which they cannot produce an express regulation, or authority from Government, will subject themselves not only to the consequences of such conduct as a military offence, but to such further legal proceedings as Government may think fit to institute against them."

* The accounts of 1814-15 specify a further receipt of Sa. Rs. 1,18,049, as *fees on suits* in the *Court of Requests*, for the recovery of small debts. The jurisdiction of this court has been extended, from October 1813, to debts not exceeding 250 Sicca Rupees. An abstract of some of its rules, relative to the confinement of debtors, and a table of authorised fees, payable by suitors, are inserted in the *Annual Register* mentioned in the preceding note.

SEC-

SECTION VI.

TOWN DUTIES.

Town duties established by Regulations 5, and 10, 1801, and 6, 1805.

BY Regulations 5 and 10, 1801, for the lower provinces and Benares, and by Regulation 6, 1805, for the upper provinces, a duty upon certain articles, when imported into the principal towns and cities, was established instead of the bazar, gunge, and other duties, included in the abolished sayer. The power to impose such duties, and to collect them on account of Government, was expressly reserved by the proclamation issued in the several provinces relative to the abolition of the sayer, and assessment of the land revenue, as has been shewn under these heads respectively; and it was judged necessary to establish the duties here referred to, for the improvement of the public resources. The original rules enacted for this purpose were however found objectionable. The number of articles subjected to the town duty exceeded sixty; many of these were also liable to the payment of Government customs; and inconveniences were experienced from the system of successive collections, which, it appeared, might be obviated, without impairing the public revenue, by an equalization of duties upon a smaller number of articles; and extending them to some of the towns in the different provinces, which had not been included in the provisions of the regulations abovementioned. The whole of the rules established by those regulations, for the collection of town duties, were therefore rescinded by Section 2, Regulation 10, 1810; and the following rules were substituted, by the succeeding sections of that regulation. § 3. *First.* "From and after the promulgation of this regulation, a town duty shall be levied, at the rates and on the articles specified in this section, (subject to the modifications contained in Clause Third,) on the importation of those articles for sale, store, or consumption, into the cities and towns hereunder mentiond; viz. the cities of Calcutta, Benares, Moorshedabad, Patna, Dacca, Agra, Furruckabad, Illahabad, and Bareilly; and the towns of Midnapore, Burdwan, Hooghly, Kishenagur, Jessore, Nattore, Dinagepore, Commilla, Islamabad, Nusseerabad,

Original rules found objectionable.

And new rules enacted, for all the provinces, by Regulation 10, 1810.

Section 3. Town duties in future to be levied at certain cities and towns on the articles, and at the rates, specified in this section.

Cities and towns.

rabad, Rungpore, Poornea, Sylhet, Boglepore, Muzufferpore, Chupra, Arra, Gya, Mirzapore, Goruckpore, Banda, Cawnpore, Mynpooree, Coel, Moradabad, and Meerut.*

Articles and rates.

ENUMERATION OF ARTICLES.	*RATES OF DUTY.*
Grain; viz. rice, (whether cleaned or in the husk) Wheat and Barley.	Two and half per cent; to be levied in the modes prescribed in Clause Second, Section 10.†
Daul, Gram, and Boote, ...	Five per cent.
Oil and Oil Seeds, ...	Five per cent.
Sugar, wet or dry, including Jaggree and Mollasses, ...	Five per cent.
Ghee,.....	Ten per cent.
Tobacco, ...	Ten per cent.
Beetlenut,..	Five per cent.
Turmeric,.....	Five per cent.
Charcoal,.....	Five per cent; to be levied on importation into the city of Calcutta only.
Fire Wood,.....	Five per cent; to be levied on importation into the city of Calcutta only.

What salt liable to duty.

Second. "From and after the promulgation of this regulation, a duty shall be levied on the importation of salt, not being salt purchased at the Company's sales at Calcutta, into the city of Benares; and into the towns of Agra, Furrucka-

* Ghazeepore, in the province of Benares, is added by Section 3, Regulation 19, 1812.

† The collection of this duty was suspended by a public notification under the official signature of the Secretary to Government in the Revenue Department, dated the 15th June 1810; and published in the Calcutta Gazette of the 21st June 1810. The suspension is still in force. *June* 1816.

bad,

bad, Allahabad, Bareilly, Mirzapore, Goruckpore, Banda, Cawnpore, Mynpooree, Coel, Moradabad, and Meerut, at the following rates:

On Lahoree Salt, ...	1 rupee	per maund.
Sambar ditto, ...	8 annas	ditto.
Doodawnee ditto, ...		
Balumba ditto, ...	4 ditto	ditto.
Salumba ditto, ...		
Furrah ditto, ...		
Boraree ditto, and any other sort of alimentary salt; excepting (as above stated) that purchased at the Company's sales at Calcutta.		

Third. "It is to be understood that the articles enumerated in the preceding clauses are to be subjected to the payment of the duty specified therein, only on their being imported into the several cities and towns before mentioned for sale, store, or consumption, within such cities or towns; and that they are not to be subjected to any town duty, on their transit or passage through one city or town, when proceeding to another city, or town, or place." § 4. "The town duties established by this regulation (expect in the city of Calcutta) shall be let in farm periodically, under the superintendence of the collectors of the land revenue,* subject to the controul of the Board of Revenue, and Board of Commissioners, in the provinces under their respective authori-

Duty not to be levied on the mere passage of the article through one city or town, when proceeding to another.

Section 4. Town duties (except in Calcutta) to be farmed, under the superintendence of the collector of the revenue, or collected khas.

* In modification of this rule, it was enacted by Section 8, Regulation 17, 1810, "that the town duties at Benares, Moorshedabad, Patna, Dacca, Agra, Furruckabad, Allahabad, Hooghly, Islamabad, Mirzapore, Cawnpore, and Meerut, shall be levied by the collectors and deputy collectors of Government customs at those stations respectively, and not by the collectors of the land revenue." The provision in this section is virtually extended to Bareilly and Ghazeepore by Section 3, Regulation 19, 1812, by which "custom houses for the collection of Government customs and town duties are established at Bareilly in the ceded provinces, and at Ghazeepore in the province of Benares; and the general rules, which are at present in force, or which may be hereafter enacted with respect to the said customs and duties in other parts of the country, are to be considered applicable to the said stations of Bareilly and Ghazeepore, in common with those established in other parts of the country."

ties; or collected khas by officers on the part of the said collectors, as the Board of Revenue and Board of Commissioners may, with the approbation of Government, direct. In the former case, the leases shall be for the period of twelve months or longer at the discretion of those Boards; and proposals shall be previously invited by public advertisements, according to the forms usually observed in inviting proposals for the farm of lands." § 5. "All proposals for farming the town duties shall be reported to the Board, to whose authority the collector may be subject; and those only shall be accepted, which may be approved by the Board, subject to the final confirmation of Government." § 6. "The proposals must be accompanied with good and sufficient security, for the due payment of the amount to be engaged for, into the collector's treasury, by equal monthly instalments." § 7. "When the security specified in the preceding section shall have been entered into, by the farmer, whose proposals shall have received the confirmation of the Board, a sunnud or perwana shall be granted to him, under the official seal and signature of the collector, authorizing the farmer to levy the town duty specified in Section 3, subject to the several rules and restrictions prescribed in this regulation; and the farmer shall at the same time on his part enter into an engagement, binding himself to adhere to the said rules and restrictions, in the following form:"

Section 5. Proposals for farming the duties to be reported to the Board, to whose authority the collector may be subjected.

Section 6. The proposals to be accompanied with good and sufficient security.

Section 7. Sunnud to be granted to the farmer.

"I ———, inhabitant of ———. Whereas the farm of the town duties in the city (or town) of ———, has been granted to me under the provisions of Regulation 10, 1810, for the period of ———, from the date hereof, at the sum of sicca rupees ———; I do accordingly hereby engage to pay the said sum of sicca rupees ——— into the treasury of the collector of ———, by equal monthly instalments, conformably to the kistbundee endorsed hereupon; together with all such interest, as may accrue, at the rate of one per cent per mensem, in the event of my failing to discharge the said instalments, or any of them, with punctuality: provided, however, that if the duties on grain should be suspended by order of Government, at any time within the period

Form of cabooleeat to be executed by the farmer.

of

of my lease, a remission shall be granted to me on that account, at the rate of sicca rupees ——— per month, for so long as the suspension shall continue. I further hereby bind myself strictly to adhere to the several rules and restrictions prescribed in the said regulation, for my guidance, in levying the town duty specified therein; and to forfeit three times the amount of any duties, fees, or collections of any denomination, which may be exacted, either by myself, or by any persons employed by me, from individuals, beyond the authorized rates, in addition to any other penalties which the regulation before mentioned may prescribe."

§ 8. "The farmer shall collect the town duties, at certain fixed stations on the public roads, or avenues, leading to the town or city; in such manner as to comprehend the suburbs thereof; and all gunges and bazars, within a circle of two coss round the town or city. The line of demarcation, as herein prescribed, shall be fixed by the collector, at each of the cities and towns specified in Section 3, (Calcutta excepted,) immediately on receipt of this regulation; and shall be notified to the magistrate for his information. A notification thereof shall also be published, in the cutcherries of the magistrate and collector, for general information."

Section 8. Limits within which the stations shall be fixed, at which the town duties are to be levied.

To be determined by the collector.

And notified to the magistrate. And to be published for general information.

§ 9. *First.* "The articles of beetlenut, oil, and sugar, being liable both to the Government customs and town duty, the farmer will of course be at liberty to collect the prescribed duty on those articles, whether they be accompanied with a rowannah or not; provided they be imported for sale, store, or consumption." *Second.* "The article of salt, not being salt purchased at the Company's sales, being likewise subject both to the Government customs and town duties, in and above the province of Benares, the farmer of the town duties at the city of Benares, and at the towns of Agra, Furruckabad, Allahabad, Bareilly, Mirzapore, Goruckpore, Banda, Cawnpore, Mynpooree, Coel, Moradabad, and Meerut, will in like manner be at liberty to collect the prescribed duty on that article, with the exception above stated; whether it be accompanied with a rowannah or not, in case it be imported for sale, store or consumption: provided, however, that nothing contained

Section 9. The farmer is to collect the prescribed town duty on beetlenut, oil, and sugar; whether accompanied with a custom-house rowannah or not.

Also on salt, in Benares and the upper provinces.

Provided it be imported for sale, store, or consumption.

contained in this regulation shall be construed to authorize the levy of any duty on salt of any description on its importation into any of the following cities or towns, viz. Calcutta, Moorshedabad, Patna, Dacca, Midnapore, Burdwan, Hooghly, Kishenagur, Jessore, Nattore, Dinagepore, Commilla, Islamabad, Nusseerabad, Rungpore, Poorneah, Sylhet, Boglepore, Mozufferpore, Chuppra, Arra, and Gya." § 10. *First.* "All articles, liable to the town duties, shall, (with the exception specified in the ensuing clause) be valued at their current prices; and a table of rates shall be formed by the collector, once in the year, or for the period of the lease; upon which the farmer shall regulate his collections. The farmer shall be furnished with a copy of this table, under the signature of the collector; and attested copies shall also be fixed up at the cutcherries of the magistrate and collector." *Second.* "Grain, viz. (cleaned rice, wheat, and barley), shall be rated permanently at one Calcutta sicca rupee per maund, of eighty Calcutta sicca weight to the seer; and rice in the husk, or paddy, at eight annas per maund. The merchant shall be moreover at liberty, (excepting in cases in which the duty may be levied by a public officer of Government, when it is always to be paid in money) to pay the duty in money or in kind, indifferently, at his option; that is, one seer in each maund, or eight gundahs in money, upon the articles of grain first mentioned; and one seer in each maund, or four gundahs in money, upon paddy; equivalent in both cases, to two and a half per cent." § 11. "The Governor General in Council, or Vice President in Council, shall be at liberty to suspend, by an order in council, the collection of the duties on grain, whenever it shall be judged expedient; and the farmer will accordingly specify in his proposals the monthly rate of remission expected by him, in the event of the duty on all or any of the sorts of grain, viz. rice, (whether cleaned or in the husk,) wheat, barley, daul, grain, and boote, on which a duty is to be collected in virtue of Section 3, of this regulation, being suspended." § 12. "The farmer shall maintain the necessary establishment of weighmen;

Section 10. Articles liable to town duties to be valued at their current prices, and table of rates to be formed.

Fixed rates for grain.

Section 11. Government may suspend the duties on grain.

Proposals of the farmers to specify the remission they will require in that event.

Section 12. Farmer to keep the necessary es-

but

but shall not be at liberty to collect any *kyally*, or other *dustoory*, on this account." § 13. "Grain, or other articles, shall not be detained by the farmer, for the purpose of being weighed or meted, nor on any other pretence, beyond twenty-four hours; under penalty of his forfeiting three times the amount of the duty demanded by him." § 14. "The farmer may, if he thinks proper, establish golahs, in convenient situations, for warehouseing grain, or other bulky articles; and may charge such rent for the use of the golahs, as may be agreed upon with the merchant; but the farmer shall not be at liberty to compel the merchant, in any case, to make use of such golahs against his inclination." § 15. "Should the merchant and farmer agree mutually on a compromise of the duties, on articles to be imported by the latter during a given period, without weighing or otherwise examining the articles; the parties shall be at liberty to make such compromise." § 16. "Should shopkeepers (venders of sweetmeats and others) think proper to compromise with the farmer for the payment of a fixed monthly sum, instead of paying the import duty on the articles sold by them, the parties shall be at liberty to make such compromise, by mutual agreement." § 17. "The monthly instalments, conformably to the farmer's engagement, are to be discharged with punctuality, by payment of the amount into the treasury of the collector, on or before the tenth day of each successive month; and the collectors are regularly to give their receipts for such payments, under their official seals and signatures. In the event of the payment of an instalment being delayed beyond the period beforementioned, the collector is to proceed against the farmer, and his security, for the recovery of the amount due, with interest at the rate of one per cent per mensem, from the date on which the arrear became due until it be discharged, by the same process as is prescribed for the recovery of an arrear of revenue. Moreover, if at any time the farmer should fall in balance to the amount of three successive instalments, the Board of Revenue, or Board of Commissioners respectively, shall be at liberty to annul the lease, (reporting the

tablishment of weighmen but not to levy any dustoory.

Section 13. Grain or other articles not to be detained beyond twenty-four hours.

Penalty for a breach of this rule.

Section 14. Farmer may establish golahs for the reception of grain or other bulky articles.

And charge rent for the use of them.

But shall not compel the merchant to use them.

Section 15. Merchant and farmer may compromise the duties without examination, if they agree to do so.

Section 16. Farmers and shopkeepers also may compromise the import duties for the payment of a fixed monthly sum.

Section 17. Farmer's instalment to be paid by the tenth of each succeeding month.

Collectors to give receipts for such payments.

Arrears, if not discharged with interest, to be recovered by the same process as an arrear of revenue.

And if the arrear shall amount to three instalments, the board may annul the lease, and either grant a new lease, or

hold the collection of the duties khas.

same for the information of government;) and may either grant a new lease to some other person, who may be willing to engage for the remainder of the term; or may direct the collection of the duty to be made by the collector. The Board of Revenue and Board of Commissioners are moreover respectively empowered, whenever they may not approve of the terms offered for the farm of the town duties, or may be of opinion that it is not advisable to let them in farm, to direct the collector to levy the prescribed duties by means of his own officers. In the abovementioned cases, and in all cases where any interval may occur, either at the commencement of the year, or at any other period, during which the collection of the town duties may not have been actually committed to a farmer, the collector of the land revenue shall levy the prescribed duties, in the same manner, and under the same restrictions, as are provided by this regulation for the guidance of the farmer."

Other cases in which the board may hold the collection of the duties khas, instead of farming them.

Section 18. If a lease be annulled, the compromises permitted under Sections 15, and 16, to be void;

Unless renewed by a succeeding farmer.

§ 18. "In the event of a farmer's lease being annulled under the provisions of the preceding section, all compromises which he may have entered into with merchants, under the option given to the parties by Sections 15, and 16, are to be considered void, unless renewed by the farmer engaging for the unexpired part of the term; or by the collector if the collection be held khas."

Section 19. Penalties for clandestinely importing articles liable to the town duties without paying them.

To be enforced by distraint of the personal property of the offender.

§ 19. "Any individual who, upon a summary enquiry before the collector, shall appear to have imported clandestinely articles liable to the town duties, without having paid those duties, shall be adjudged to pay a forfeit to the farmer, or (if the collection of the duty be made by the collector) a fine to government, of three times the amount of the duties which would have been demandable in the first instance; and the collectors shall proceed, in both cases, to levy the amount of the penalty, if it be not immediately discharged, by distraining the personal property of the individual, against whom it may have been adjudged; observing the several rules and restrictions prescribed by the regulations in regard to distraints for arrears of rent."

Section 20. No article to be liable to the town duty un-

§ 20. No article whatever shall be liable to the town duty, which is not expressly declared to be so, by this or some future regulation.

tion. Moreover, to prevent the vexatious interruption of passengers, on pretence of search, as well as harassing demands and exactions upon individuals, who in coming into cities or towns, upon their occasional business, may happen to have about their persons any of the articles enumerated in Section 3, in small quantities, for their own immediate use or consumption, it is hereby declared, that no duty whatever shall be collected, or demanded, upon any of the said enumerated articles in such cases; that is to say, when the quantity of the article in the possession of the individual may be so inconsiderable, as to be evidently intended for the purposes above specified, and not for sale or store, nor amounting to a load or burthen." §. 21. "Any farmer, collector, or person in charge of the collection of the town duty, who in contravention of the preceding rules, shall levy the said duty upon any article not expressly declared liable thereto, or which may be exempted therefrom for the reasons above stated, shall, on proof of the fact, at the suit of the party aggrieved, be subjected to a fine of three times the amount of the duty so collected by him; in addition to such costs and damages, as may be awarded against him, on a consideration of the injury sustained by the complainant. The illegal detention of any article not liable to the town duty, on any pretence whatever, although no duty be actually levied, shall moreover be punishable by fine, according to the circumstances of the case, in a sum not exceeding five hundred rupees; in addition to the costs and damages which may be adjudged to the party suing therein." §. 22. "The collector is empowered to hear all complaints which may be preferred against the farmer, for any acts committed by him, or by the persons employed by him, incurring the penalties specified in the preceding Section; or in Section 13 of this Regulation; and to award payment of the said penalties, with costs and damages to the party aggrieved, upon a summary enquiry. The collector is also empowered generally to hear all complaints of undue exactions by the farmer, or his servants; and on proof thereof to award to the complainant, upon a summary enquiry, three times the amount of the duties collected beyond the authorised rates. The collector's order, in all such cases,

less expressly declared to be so.

No articles declared to be so, when the quantity is so trifling as to be evidently for the immediate use of individual possessing it.

Section 21. Penalties for breach of the two preceding rules.

And for illegal detention of any article not liable to the town duty.

Section 22. Collector empowered to hear complaints against the farmer or his servants, and to adjudge the prescribed penalties.

Collector's order how to be enforced.

cases, shall be enforced against the farmer, by the same process as is prescribed in the existing regulations for the recovery of an arrear of revenue." §. 23. "If either party should be dissatisfied with any order passed by a collector, adjudging any of the penalties specified in the three preceding Sections, against any individual at the suit of the farmer; or *vice versâ*, on the complaint of any individual against the farmer, or his servants; such party shall be at liberty to institute a suit in the dewanny adawlut for damages, on account of any injury he may deem himself to have sustained thereby; but the institution of such suit shall not prevent the execution of the order passed by the collector as above directed; nor of any process of distraint which he may issue under the provisions of Section 19." §. 24. "Complaints against the collectors, for any unauthorized exaction or demand made by them, or for issuing any unwarrantable process of distraint, during any period when the collection of the town duties may be under their own direct management, and not under that of a farmer, or for any act whatever which may be repugnant to this regulation, or any future regulation for the collection of the town duties, shall be received, tried, and determined, according to the same rules as are prescribed by the existing regulations, for receiving, trying, and determining, complaints against the same officers, in regard to matters connected with their duties as collectors of the land revenue. It is moreover hereby declared, that in all instances when the collection of the town duties shall be made by the collector, the provisions of Section 38, Regulation IX, 1810, shall be considered applicable to all native officers employed under him, who may be guilty of levying any authorized exaction, in contravention of the rules contained in Section 20, of this regulation."*

Section 23. Either party dissatisfied with the collector's order may institute a suit in the dewanny adawlut for damages.

The institution of such suits not to prevent the execution of the collector's order.

Section 24. Rules under which complaints against the collectors for acts which may be repugnant to this, or any future regulation, for the collection of the town duties, are to be received, tried, and determined.

And for the punishment of native officers employed by them who may be guilty of levying any unauthorized exactions.

As

* Regulation 9, 1810, relates to the Customs; and the Section referred to will be included under the next head of this Analysis. As relative to the native officers employed in collecting the town duties, it may be stated, with a slight variation of terms, as follows:—"Any native officer proved to have been guilty of a breach of the prescribed rules will, of course, be liable to be dismissed from his employment, under the rules provided in such cases by Regulations 5, 1804, and 8, 1809. Complaints

§. 25. As a remuneration to the collectors of the land revenue, for their trouble in executing the several additional trusts herein committed to them, they shall be entitled to receive such commission on the neat amount of the collections actually realized, as government may fix, whether the duties be farmed or be held khas."

Section 25. Collectors to receive a commission on the amount of the collections realized by them.

CALCUTTA SPECIAL RULES.

Calcutta special rules.

§. 26. "THE collection of the town duties, established by this Regulation, shall in the city of Calcutta, including the suburbs thereof, be levied by the Collector of the Government Customs; who for this purpose shall be also styled *Collector of the Calcutta town duties*; assisted by his Deputy, who shall also be styled *Deputy Collector of the Calcutta town duties*." §. 27. The Collector and Deputy Collector of the Calcutta town duties shall take and subscribe the following oath, before the Governor General in Council, or any person whom he may commission to administer it.

Section 26. Town duties to be levied by the collector of the government customs, assisted by his deputy.

Section 27. Oath of Office.

"I A. B. do solemnly swear, that I will faithfully discharge the duty of Collector (or Deputy Collector) of the Calcutta town duties; that I will not directly or indirectly, by myself or others, be concerned in, or allow of, any collections being made, but such as are authorized by, and brought to the credit of Government; that I will not take or receive, or knowingly allow any other person to take or receive, any present, gratuity, fee or advantage whatever, on account of any matter relating to the duty of my

plaints against native officers employed under the collectors of town duties shall moreover be considered cognizable by the magistrates; and any such native officer, on being convicted before a magistrate of having, under any plea or pretence whatever, levied any unauthorised exaction, in violation of the regulations of Government, shall be deemed guilty of extortion, and be liable to be sentenced to pay a fine, not exceeding two hundred rupees, and to imprisonment, not exceeding six months, or to corporal punishment, not exceeding thirty rattans, according to the nature and circumstances of the case, and the condition in life of the offender; and if the fine so adjudged be not paid, it shall be commutable to a further period of imprisonment not exceeding six month, as provided with respect to other sentences of the magistrate by Section 19, of Regulation 9, 1807. The party aggrieved, shall, at the same time, be at liberty to prosecute the offender for damages in the dewanny adawlut."

office, excepting such as now is, or may be hereafter, authorized by the Governor General in Council.

"So help me God."

Section 28. The duties are to be levied on the importation of the articles specified in section 3, into any part of the city or its suburbs. Boundaries of the suburbs of the city of Calcutta described.

§. 28. *First.* "The Calcutta town duties shall be levied upon the articles specified in Section 3, on their being imported for sale, store, or consumption, into any part of the city, or its suburbs, the boundaries of which for the purposes of this regulation, are declared to be as follows:—

ON THE NORTH.

A line drawn northwest from Dum Dum Bridge, to the southern extremity of the town of Barnagore; and thence obliquely across the Hoogly river, to the southern bank of the nulla called the Bally khal.

ON THE WEST.

From the Bally khal along the high road from Hooghly to Sangral, through the townlets or villages of Sulkea, Howra, and Sheebpore, to the small nulla on the western boundary of Colonel Kyd's premises at Sheebpore point; from thence obliquely across the river, to the termination of the new road at Mutchwa Colah; and along that road to the end of its intersection of the old and new Garden Reach roads.

ON THE SOUTH.

From the end of the new road above mentioned, a line drawn in a south easterly direction, so as to include the town or haut of Ballia, to Tolly Gunge; and including that Gunge.

ON THE EAST.

From Tolly Gunge to Ballia Ghaut on the salt water lake; and from thence on, in a line, to Dum Dum Bridge." *Second.* "The whole of the space contained within the boundary lines above described, and the limits of the city as defined in Section 17, Regulation 3, 1793, shall be considered as forming the suburbs in question. §. 29. "The collector of the Calcutta town duties shall establish two chokies on the Hooghly river; one at the month of

Section 29. Collector to establish two chokies on the

the

the Bally khal; and the other at Kidderpoor ghaut. He shall also establish chokies at such other ghauts, and at all such of the entrances of the city, or suburbs of the city, by land, as may be sanctioned by the Board of Revenue, on his recommendation." §. 30. *First.* "The town duties on the articles specified in Section 3, which may be imported from the interior of the country on boats, with the exceptions specified in the following clause, shall be levied, on the arrival of the boats at either of the two river chokies above mentioned; and the duties on articles imported from the interior of the country by land shall be levied on the articles entering any part of the limits of the city as above defined. The collector however may grant passes, for the free passage or entry of the articles so imported into the city, on the applications of the owners; provided that such applications be accompanied with good and sufficient security, to his satisfaction, for the payment of the amount of the duties chargeable upon them in fifteen days." *Second.* "If the articles imported from the interior of the country, on boats, be expressly intended for exportation by sea; or be declared to be only passing up or down the river, without any intention of landing them in the city or its suburbs; no duty shall be levied thereon upon their arrival at either of the river chokies. But in both cases the boats, on which such articles shall be laden, shall be conducted to the custom-house, by one of the peons of the chokey; who shall not quit the boats, or permit the articles loaded on them to be landed at any place, excepting at the custom-house; where they shall remain; until, either they are shipped or passed, under the several rules contained in Regulation 9, 1810, which may be applicable to the export or passage of such articles; or, if not exported nor passed, that the prescribed town duties be paid upon their being landed for sale, store, or consumption." §. 31. "The collector and his officers are required to bring to the custom-house all boats attempting to pass the town, without stopping to be examined; and should goods or articles of any kind be found on board of boats so attempting to pass, after being required by the custom-house officers

Hooghly river. And chokies at such of the entrances by land as may be sanctioned by the Board.

Section 30. Duties when to be levied.

Collector may grant passes upon security being given for the payment of the duties in fifteen days.

Rules to be observed if the articles imported, be expressly intended for exportation, or be declared to be passing up or down the river.

Section 31. Articles attempted to be passed in boats without stopping to be examined liable to confiscation.

to

to stop, such goods or articles shall be liable to confiscation, at the discretion of the Board of Revenue." §. 32. *First.* "Should any person dispute the payment of the prescribed town duties, on articles liable thereto; and shall neither pay them, nor give security to the satisfaction of the collector for the payment of them in fifteen days; such part of the articles, as shall be deemed equal in value to the amount of the duties, shall be secured, and deposited in the custom-house; or in such store house or place, as the collector shall appoint for the reception of them, until the duties be paid: and in the event of their not being liquidated within the period of fifteen days, the goods shall be sold at public sale." *Second.* "After deducting the duties and custom house charges, the balance of the sales of articles disposed of under the preceding clause shall be paid to the owners on their making application for the same." §. 33. "Articles subject to the town duties under Section 3, and attempted to be clandestinely conveyed into the city or its suburbs, without having paid the established duty, are declared liable to confiscation." §. 34. *First.* "Whenever any articles shall be detained on account of circumstances subjecting them eventually to confiscation, the collector shall submit the case, without delay, to the Board of Revenue, for their decision." *Second.* "In the event of any articles being confiscated under this regulation, the same shall be sold by public auction, and the net proceeds of the sales shall be divided as follows:

One-fifth between the collector and deputy collector, in such proportion as Government may direct.

Two-fifths in equal proportions to the informer, and the officers of Government making the seizure.

Two-fifths to the Company."

Section 32. Collector how to proceed should any person dispute the payment of the duties, and neither pay them nor give security for the payment of them.

Balance of the sales of articles under the preceding clause, how to be disposed of.

Section 33. Articles attempted to be clandestinely conveyed into the city without payment of the established duties, to be liable to confiscation.

Section 34. Whenever articles are detained eventually for confiscation, the case to be reported to Board without delay. Proceeds of the sales of articles confiscated, how to be applied.

Third. "The Board of Revenue are empowered to direct the release of any articles which may have become liable to the penalty of confiscation; or to order double duty to be levied upon them in lieu of that penalty, in cases in which there may appear

The board empowered to remit or mitigate penalties in certain cases.

to

to them grounds for the remission or mitigation of such penalty."

Fourth. "In either of the two preceding cases, if the articles shall have been seized on the information of an informer, the Board of Revenue shall direct such compensation to be made to him, (not exceeding the amount he would have been entitled to if the confiscation had actually taken place,) as they may deem equitable and proper; and the amount thereof shall be levied upon the articles, according to the rules above prescribed in Section 32. The penalty of double duty, in cases in which it may be adjudged under the provisions of the preceding clause, shall be also levied in the same manner." §. 35. "A register of the Calcutta town duties, collected under this regulation shall be kept in the following form:—

In what manner informers are to be remunerated in such cases.

How to levy the amount of such remuneration:

Or the penalty of double duty in cases in which it may be adjudged.

Section 35. Register to be kept of duties collected under this regulation.

Register of Calcutta Town Duties, collected on Imports, in May 1810.

Register number.	Date.	From whence imported.	Importer's Name.	Description of Articles.	Quantity of Articles.	Rate of Duties.	Amount of Duties.

§ 36. "The collector and deputy collector of the Calcutta town duties are declared amenable to the zillah court of the twenty-four pergunnahs, for any acts done by them cognizable therein under the existing regulations; and the rules prescribed in Regulation 8, 1806,* and in Section 40, Regulation 9, 1810, shall be applied to cases of complaint against those officers, for acts relating to the collection of the town duties; the same as they would be applicable to the same individuals, in regard to complaints against them for acts done in their respective capacities of collector and deputy collector of the Government customs." § 37. "The native of-

Section 36. Collector and deputy collector to be subject to the jurisdiction of the zillah court of the twenty-four pergunnahs.

Rules to be applied to cases of complaint against them.

Section 37.

* See modifications of these rules by Regulation 17, 1813; and Regulation 2, 1814; Vol. II. p. 423.

ficers

Native officers under the collector how to be proceeded against for any acts committed by them contrary to this regulation.

ficers employed under the collector are also declared to be amenable both to the civil court of the twenty-four pergunnahs, and to the jurisdiction of the magistrates of that zillah in regard to any acts committed by them in breach of the provisions of this regulation; and all such native officers shall be liable to be proceeded against, in the same manner, and shall be subjected to the same penalties for undue exactions, as are prescribed with respect to native officers of the collectors generally in such cases, by Section 24, of this regulation." §. 38. "The collector and deputy collector of the Calcutta town duties shall be entitled to receive such salary, allowance, or commission on the amount of the duties realized under this regulation, as Government may direct." §. 39. "In addition to the foregoing special rules, it is hereby declared, that the several general rules and restrictions contained in Sections 3, 9, 10, 11, 13, and 20, of this regulation, are to be considered strictly applicable to the collection of the Calcutta town duties, in all points in which they may not be superseded by, or be at variance with, the said special rules."*

Section 38. Commission to be received by the collector and deputy collector on the duties realized by them.

Section 39. What general rules are to be applied to the collection of the Calcutta town duties; in addition to the foregoing special rules.

* The following is a memorandum, taken from the official accounts, of the gross and net amount of the town duties collected in the year 1814-15; viz. from the 1st May 1814, to the 30th April 1815.

	Gross collections.	Net collections.		Gross collections.	Net collections.
Calcutta,	1,19,371	1,09,080	Merut,	6,559	6,231
Moorshedabad,	52,163	37,393	Mirzapore,	64,593	61,363
Dacca,	11,926	7,117	Benares,	69,134	65,677
Patna,	29,528	22,647	Etawah,	3,089	2,935
Chittagong,	186	182	Goruckpore,	6,254	5,942
Cawnpore,	10,334	9,818	Moradabad,	4,453	4,231
Furruckabad,	22,248	21,136	Allyghur,	5,549	5,272
Allahabad,	11,033	10,482	Bundelcund,	3,976	3,777
Bareilly,	20,621	19,590			
Agra,	18,340	17,423	Total Sa. Rs.	4,59,357	4,10,296

SECTION

SECTION VII.

CUSTOMS.

Rule for the collection of Government Customs at Calcutta, passed in March 1773.

BY the second article of the resolutions of the Governor General and Council "for the future establishment and regulation of the duties of the country Government," passed on the 23d March 1773;* it was directed "that every article of foreign, or inland, trade, excepting salt, beetle-nut, and tobacco, (the duties on which were continued as before) shall pay a duty to Government of two and a half per cent. distinct from the Company's duty, paid in Calcutta, and without exception to any sect or nation whatever." Under this rule, and the provisions which were in force for the collection of a duty upon all imports into the town of Calcutta, the duties levied upon the trade of Bengal, Behar, and Orissa, previously to the month of June 1788, were of two descriptions; the *Calcutta Customs*, also called the *Calcutta town-duties;* and the *Government Customs*. The former, which, with some exceptions, consisted of a duty of four per cent. on imports by sea, and gruff articles imported by land, or two per cent on land imports, consisting of piece goods and cotton, were collected by the Company in virtue of their ancient factorial rights, and were leviable on all goods whatever, imported into Calcutta, by land or by water, whether for consumption in the town, or for the purpose of subsequent export. The duty of two and a half per cent, which, from its nature, obtained the designation of *Government customs*, was imposed by the Company, under the authority of the *Deewany* grant, and in conformity with former usage, as exercising a delegated power of sovereignty within the provinces specified. It was levied, under certain restrictions, on all goods imported into, or exported from, any part of Bengal, Behar, or Orissa; whether by land, or by water; by British born subjects, foreigners, or natives; and upon the imports and exports of the port of Calcutta was taken in addition to the town duties. A Board of Customs, consisting of a Member of Council, and four senior civil Servants, was established, in 1773, at the Presidency, "to inspect, regulate,

And nature of two descriptions of customs, viz. Calcutta customs, or town duties, and Government customs, collected till June 1788.

Board of Customs and Custom houses established in 1773.

* See these resolutions at length, in *Colebrooke's Digest*, vol. 3, 425.

and

and controul, the whole business of the customs;" and five custom houses, under the controul of this board, were fixed at Calcutta, Houghly, Moorshedabad, Dacca, and Patna: besides chokies, stationed on the western and northern frontiers, to collect the duty on goods exported through the passes of the hills. It being requisite to pay the Government customs, and take out a rowannah, or pass, from one of the custom houses, before any goods, the produce of the country, could be removed from the place of provision, or manufacture; these customs operated as an internal impost on consumption, with respect to such articles of produce, or manufacture, as were not exported; on which account, and with a view to promote the interior commerce of the provinces, it was judged expedient, in the year 1788, to abolish the Government customs, throughout the country; except on exports and imports, passing the Company's north western frontier, at the conflux of the rivers Ganges and Gogra. The establishments for collecting the Government customs at Calcutta, Houghly, Moorshedabad, Dacca, Patna, and Chittagong, (where an additional custom house had been erected) were accordingly, on the 20th June 1788, ordered to be withdrawn at the end of that month; and all merchants were declared "at liberty to transport their goods through any part of the Company's provinces of Bengal, Behar, and Orissa, (as far as the river Caramnassa, which divides part of the province of Behar from Benares) or to export them by sea, free from all customs whatever, excepting the Company's customs at Calcutta." At the same time a new custom house was established at Manjee, (situate above Patna, at the conflux of the Ganges and Gogra) for collecting a duty of two and a half per cent, under regulations of the above date, upon goods exported from, or imported into, the Company's provinces, by this route; and it was notified that goods imported into the Company's provinces, from the dominions of the Nabob of Oude, or any countries beyond the Caramnassa, having paid the established duty at Manjee, shall pass duty free, through any part of Behar, Bengal, and Orissa; unless imported into Calcutta, when they will be subject to the

Government customs abolished in 1788: except on exports from, and imports into, the Company's provinces, at Manjee.

Duty on imports and exports at Manjee.

the Company's customs."* The rules for collecting the Government customs on imports and exports at Manjee, and the Company's customs, or town duties, on imports at Calcutta, were re-enacted, with modifications, in Regulation 42, 1793. But the arrangement introduced in 1788 being found objectionable, both in diminishing the public resources, and in imposing a partial burden on the trade of Calcutta, with a view to recover the revenue formerly derived from the customs, and to place all persons trading to, or from, the Company's dominions, on the same footing as to duties, it was determined by the Governor General in Council, in 1795, as a preparatory measure, to abolish the Calcutta customs, or town duties; and re-establish the Government customs upon imports by sea into, or exports from, the port of Calcutta; reserving for future determination what further arrangements should be made for collecting the Government customs on imports or exports through the foreign settlements; and on goods imported into, or exported from, the provinces by any other channel, or route, than the port of Calcutta, and station at Manjee. Regulation 39, 1795, was accordingly enacted for this purpose; and amended rules for the collection of an import and export duty in the province of Benares, were enacted in the same year, by Regulation 3, 1795. By Regulation 1, 1797, an additional duty of one per cent was imposed upon imports into, and exports from, the port of Calcutta (money and bullion excepted) to assist in defraying the expense of an armed vessel for the protection of the commerce of the port against privateers. This was discontinued by Regulation 11, 1800; and the former duty of two and a half per cent was at the same time raised to three and a half per cent, in pursuance of an order from the Court of Directors, "that an additional duty of one per cent be levied on the trade of India, at their several presidencies." The subsidiary provisions in Regulation 11, 1800, and in various other Regulations passed be-

Rules for Government Customs at Manjee, and Calcutta town duties, re-enacted in Regulation 42, 1793.

Calcutta town duties abolished in 1795; and Government customs on imports by sea to and exports from the port of Calcutta, re-established by Regulation 39, 1795.

Amended rules for import and export duties in the province of Benares enacted by Regulation 3, 1795.

Additional duty of 1 per cent on imports and exports of the port of Calcutta established by Regulation 1, 1797.

Discontinued, and former duty raised to three and a half per cent by Regulation 11, 1800.

* See Regulations of 20th June 1788, in page 430, vol. 3, of *Colebrooke's Digest*; which also contains many other rules and orders concerning the Calcutta and Government Customs, passed at different times, from the 16th February 1773, to the 28th September 1792.

Calcutta Inland Government Customs, and Government Customs at Houghly, Moorshedabad, Dacca, Chittagong, and Patna, re-established with exceptions, by Regulation 11, 1801.

fore those now in force, do not call for particular notice. But it must be added, that with a view to improve the public revenue, and in execution of the intention already adverted to, the Government Customs formerly levied on goods imported into Calcutta from the interior of the country, or exported to the interior from Calcutta, as well as the Government Customs heretofore levied at Houghly, Moorshedabad, Dacca, Chittagong, and Patna, (the latter instead of Manjee) were re-established, with certain exceptions, by Regulation 11, 1801, at the augmented rate of three and a half per cent; being the same as the new rate established for the Government customs of the port of Calcutta.

Rules for collection of Government Customs in Upper Provinces contained in Regulations 38, 1803, and 11, 1804.

Rules for the collection of Government customs, at different rates, adapted to the various articles of import and export, in the provinces ceded by the Nuwab Vizeer, Doulut Ráo Séndhea, and the Peshwa, were also enacted in Regulations 38, 1803, and 11, 1804; and custom houses for the collection of the duties imposed by these Regulations were established in the cities of Allahabad, Furruckabad, Bareily and Agra; as well as in the towns of Goruckpore, Moradabad, Cawnpore, Etawa, Coel, Meerut, Seharunpore, and Banda.

And Custom Houses established in these provinces.

The whole of the rules in force for the collection of Government Customs, in all the provinces, revised in 1810; and rescinded by Section 2, Regulation 9, 1810.

The rules contained in these regulations, and in the whole of the regulations in force for the collection of Government customs, in all the provinces, having been brought under the consideration of the Vice President in Council (during the absence of the Governor General on the public service in 1810,) they appeared (as stated in the preamble to Regulation 9, 1800,) "essentially defective; many of the regulations being deficient in simplicity and clearness; and the whole forming too complex a system of multiplied taxes, in many instances unequally distributed on the inhabitants of the different provinces; as well as harassing in the mode in which they were collected." The Vice President in Council therefore, "desirous of impartially equalizing the public burdens, without injuring the resources of Government, and of simplifying the collection of the customs, by reducing to a single tax the several duties before levied; so that merchandize, having once paid duty, may be freely transported from place to place, without the harassing interruptions

interruptions to which the trade had been exposed under the system of successive collections," rescinded by Section 2, Regulation 9, 1810, all the subsisting Regulations for the collection of Government customs in Bengal, Behar, Orissa, Benares, and the upper Provinces; viz. Regulations 42, 1793; 3, 39, and 57, 1795; 1, and 9, 1797; 11, 1800; 11, 1801; 1, 5, and 7, 1802; 38, 1803; 11, 1804; and 19, 1806; and enacted the following rules, in Regulation 9, 1810; which are here stated with subsequent additions and modifications.

New rules enacted in Regulation 2, 1810.

§. 3. "All duties levied under any denomination whatever, which constitute a tax on the transit, export, or import, of goods of any description, through, from, or into, the provinces subject to the presidency of Fort William, or the cities or towns therein, (with the exception of the city of Delhi and the circumjacent territory, to which the regulations of the British Government have not been extended) nor authorized by this or any other regulation which may be passed and published in the manner prescribed by Regulation 41, 1793, are hereby declared to be abolished." § 4. "All custom houses heretofore established (with the exception of those which are continued by this regulation) shall be withdrawn from the period of the promulgation of this regulation." §. 5. "The custom houses for the collection of the government customs, under this regulation, shall be fixed in the cities of Agra, Furruckabad, Allahabad, Benares, Patna, Moorshedabad, Dacca, and Calcutta; and in the towns of Meerut, Cawnpore, Mirzapore, Chittagong, Houghly, and Balasore.* § 6. *First.* "The Government customs to be levied at the several custom houses established by Section 5, with the exception of the cities of Furruckabad and Allahabad, and the towns of Meerut and Mirzapore, shall be levied

Regulation 9, 1810. §. 3. Duties not authorized by this, or any future regulation, abolished.

Section 4. All custom houses not continued by this regulation, withdrawn.

Section 5. Custom houses where to be fixed in future.

Section 6. Government customs to be levied at the principal stations by collectors.

* Custom houses at Bareily and Ghazeepore, are added by Section 3, Regulation 19, 1812; and another, at the town of Scharunpore, by Section 6, Regulation 6, 1814. As local circumstances may, in some instances render it expedient, that the Custom Houses should be fixed without the limits of the cities, or towns, specified, it is further provided by Section 2, Regulation 1, 1812, "that a Custom House may be fixed by order of the Governor General in Council at any place near the cities or towns referred to, not exceeding one coss or two miles from their respective boundaries."

by

by officers, to be severally denominated Collectors of the Government customs at Agra, Cawnpore, Benares, Patna, Moorshedabad, Houghly, Dacca, Calcutta, Chittagong, and Balasore." *Second.* "The custom house at Meerut shall be subject to the authority of the collector of the Government customs at Agra, with a covenanted civil servant as his deputy, to be stationed at Meerut. The custom houses at Furruckabad and Allahabad shall be subject to the authority of the collector of the Government customs at Cawnpore, with a covenanted civil servant as his deputy, to be stationed at Furruckabad, and a covenanted civil servant as his deputy at Allahabad; and the custom house at Mirzapore shall be subject to the authority of the collector of the Government customs at Benares, with a covenanted civil servant as his deputy, to be stationed at Mirzapore."* §. 7. The collectors of the Government customs established by this regulation, and their respective deputies, shall be subject, in the province of Benares, and within the ceded and conquered provinces (with the exception of Cuttack), to the authority of the Board of Commissioners; and within the provinces of Bengal, Behar, and Orissa, including Cuttack, to the authority of the Board of Revenue at the Presidency." §. 8. "The collectors of the Government customs shall use a square seal, two inches in diameter; bearing an inscription to the following effect, in the Persian character and language, *The seal of the*

And at subordinate stations by deputy collectors.

Section 7. Collectors and their deputies to be subject to the authority of the Board of Commissioners, and Board of Revenue, respectively.

Section 8. Seal of office.

* In modification of this clause, it is declared by Section 4, Regulation 19, 1812, "that it shall be competent for the executive Government, by an order passed by the Governor General in Council, to render either or all of the said subordinate custom houses separate and independent stations, or to subject either or all of them to the control of any of the other principal collectors of customs, whenever circumstances may render it advisable to have recourse to either of those measures." The following alteration in the relative situation of the custom houses established within the province of Benares has also been since made by Section 2, Regulation 12, 1813. *First.* "The principal custom house of the collection of Government customs and town duties, in the province of Benares, shall be in future established at Mirzapore." *Second.* "A subordinate custom house shall be established for the collection of Government customs and town duties, at the city of Benares. The deputy Collector of Government customs, and town duties, at the city of Benares, and at Gazeepore, shall be subject to the general control of the collector of customs and town duties at Mirzapore; conformably to the principles on which such control has been hitherto exercised by the collector of customs at Benares, as defined in Regulations 9 and 10, 1810, and Regulation 19, 1812."

Collector

Collector of the Customs at —— The seal of each custom house shall remain in the custody of the Collector of the Government Customs; and in that of the deputy collector at the stations which may be under the superintendence of an officer of that description." §. 9. "Previously to entering upon the execution of the duties of their respective offices, the collectors of the government customs, and their respective deputies, shall severally take and subscribe the following oath, before the Governor General in Council, or any person whom he may empower to administer the same." "I, A. B. do solemnly swear, that I will faithfully discharge the duty of the collector (or deputy collector) of the government customs at ——————; that I will not, directly or indirectly, by myself or others, be concerned in, or allow of, any collections being made, but such as are, or may be hereafter authorized by, and brought to the credit of, government; that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions, subject to the immediate authority of the Presidency of Fort William in Bengal, for the purpose of remitting money to Europe, or in any commercial transaction; that I will not take or receive, or knowingly allow any person to take or receive, any present, gratuity, fee, or advantage whatever, on account of any matter relating to the duty of my office, excepting such as now is or may be hereafter authorized by the Governor General in Council.

So help me God."

Section 9. Oath of office to be taken by the collectors, and their deputies.

§ 10. "The several custom houses shall be open, for the transaction of business, every day (Sunday and holidays, agreeably to a list to be furnished to the collectors by the Board of Revenue and Board of Commissioners respectively, excepted) from ten o'clock in the morning, until four o'clock in the afternoon." §. 11. *First.* "The collectors of the Government customs shall establish custom-house chokies at such places as may be deemed necessary, on the principal routes, or ghauts, leading to or from their respective custom houses; provided however, that no chokies shall be established at any greater dis-

Section 10. Established office hours.

Section 11. Custom house chokies.

Not to extend beyond a certain distance from the custom house, except in special cases.

tance than two coss, or four miles, from any such custom-houses; with exception only to such as may be judged necessary at greater distances from the custom-houses at Agra and Meerut, for the security of the public revenue derived from the article of salt in the ceded and conquered provinces; and for preventing the clandestine conveyance of shawls through those provinces to any foreign territory; or which may be requisite under the collector of customs at Houghly, with the view to embrace the trade of the foreign settlements; or under the collector of customs at Dacca, for the purpose of comprehending the navigation of the river Megna; or under the collector of customs at Balasore, at the dependent port of Churamun; or under any other collector of customs, for any special reason or purpose, which shall be reported to the Board of Revenue, or Board of Commissioners; and without whose respective sanction, previously obtained, no chokies whatever shall on any account be established, at a greater distance than two coss, or four miles, from the custom house." *Second.* No duty or collections whatever shall be levied at any chokey. The authority of the officers of the chokies shall be confined to the detention of goods liable to duty, passing within the limits of their chokey, unaccompanied by proper rowannahs; or of goods which may not correspond with the rowannahs; until such time as the orders of the collector of customs can be obtained respecting them; and for which purpose immediate notice is to be given to the collector. All duties shall be paid at the stations of the collectors of the customs, or their deputies; by whom alone rowannahs are to be granted. §. 12. *First.* "Duties under the denomination of government customs shall be levied at the following rates, on the goods specified in this section:"

Which are to be reported to the Board of Revenue or Board of Commissioners, for their previous sanction.

Duties not to be levied at the chokies. Duty of the officers at the chokies defined.

All duties to be paid at the custom houses, and rowannahs to be granted only by the collectors, or their deputies.

Section 12. Enumeration of the goods on which the government customs are to be levied, and the rates of duty.

Enumeration of Goods.	*Rates of Duty.*
Cotton wool.	Twelve annas per maund of ninety-six Calcutta sicca weight.*

On

* By Section 3, Regulation 1, 1812, the stated duty upon cotton wool is restricted

to

ENUMERATION OF GOODS.	RATES OF DUTY.
Cotton piece goods.....	On importation by sea; seven and a half per cent. On importation from the Vizeer's and the Nepaul territories; two and a half per cent. On importation from other foreign territories; seven and a half per cent. On the transit of piece goods, the manufacture of the Company's territotes; seven and a half per cent.

A drawback shall be allowed of five per cent on exportation by sea, on such piece goods as shall have paid the duty of seven and a half per cent.*

Cotton yarn.	On importation, exportation, or transit; seven and a half per cent ad valorem.

to cotton "in its cleaned state;" and a duty of four annas per maund of ninety-six Calcutta sicca weight" is fixed for cotton "in its uncleaned state; or in the pod." It is added, in Section 4, that the duty "is not intended to comprehend the produce of the seemul tree (Bombax) which is not to be subject to any duty" It is further declared in Section 12, Regulation 4, 1815, "that the amount of inland or transit duty to be levied on cotton wool, both in its cleaned and uncleaned state, shall not exceed five per cent upon the value. Under this modification therefore the fixed rates of twelve annas per maund in its cleaned state, and four annas in its uncleaned state, per maund of ninety-six Calcutta sicca weight, will be reduced to a rate equal to five per cent on the value, whenever the rates before specified may exceed that amount." For drawbacks on exportation to Great Britain, or Ireland, see Regulation 4, 1815, §. 9, cited in the sequel.

* In explanat on of the provision for drawbacks, in this and other parts of Regulation 1, 1810, it is declared by Section 20, of Regulation 1, 1812 "that no drawback shall be allowed on the exportation of goods imported from the interior of the country, unless the applications for them be accompanied with the rowannah or rowannahs, covering the goods intended to be exported." This is confirmed by Section 11, Regulation 4, 1815; which rescinded a further provision in Section 5, Regulation 6, 1814, for producing the goods as well as the rowannahs. It must be noticed however, that the rules for drawbacks, on exportation by sea, contained in Regulation 9, 1810, are materially altered by those of Regulation 4, 1815, on exportation to the United Kingdom of Great Britain and Ireland.

Ditto

Enumeration of Goods.	*Rates of Duty.*
Raw silk filature.	Ditto seven and a half per cent, on a valuation of seven rupees per seer of eighty Calcutta sicca weight.
Bengal wound silk.	Ditto seven and a half per cent, on a valuation of six rupees per seer of eighty Calcutta sicca weight.
Tushah, ...	Ditto seven and half per cent, on a valuation of five annas per seer of eighty Calcutta sicca weight.*
Chassum, ...	Ditto seven and a half per cent, on a valuation of three annas per seer of eighty Calcutta sicca weight.

A drawback shall be allowed of five per cent, on the exportation to the port of London, of all silk which shall have paid the above duty.

Silk piece goods; and goods made partly of silk and partly of cotton.....	On importation by sea; seven and a half per cent. Ditto from the Vizeer's and Nepaul territories; two and a half per cent. Ditto from other foreign territories; and on the transit of goods the manufacture of the Company's territories; seven and a half per cent *ad valorem*.

* The stated valuation of *Tushah* and *Chassum* silk is superseded by Section 5, Regulation 1, 1812, which directs that "with the exception of raw filature silk, and Bengal wound silk (the duties on which shall be levied in the mode already established), a duty shall be levied on all other sorts of raw silk at the rate of seven and a half per cent ad-valorem. A considerable fluctuation in the price of some of the other articles specified in Section 12, Regulation 9, 1810, having created an obstacle to the collection of the duties *at a fixed valuation*, so much of the first clause of that section, "as enacts that Government duties shall be levied on certain articles at the established rates, at a fixed valuation of the said articles," was rescinded by Section 2, Regulation 19, 1812, with an exception to indigo, raw filature silk, and Bengal wound silk, the duties on which are to be levied "according to the fixed valuation, in Clause First, Section 12, Regulation 9, 1810." On the other articles, the duties are to be levied, "at the established rates, *ad valorem*."

A drawback shall be allowed of five per cent on exportation by sea, to London, of such silk piece goods as shall have paid the duty of seven and a half per cent.

Embroidered goods and brocades	On importation by sea; seven and a half per cent. On importation from the Vizeer's and Nepaul territories, two and a half per cent. Ditto from foreign territories, and on the transit of goods, the manufacture of the Company's territories; seven and a half per cent.
Gold and silver tissues, lace and thread.....	On importation, exportation, or transit; five per cent *ad valorem.*
Shawls	On importation, ten per cent upon an advance of fifty per cent on the invoice valuation; to be levied at the first custom house; after which the goods shall be subject to no further duty in the Company's provinces.
Woollens (Europe).....	Five per cent on importation by sea only.*
Woollens (country) viz: Looys, and Blankets.....	If imported from Nepaul, two and a half per cent. The manufacture of the Company's territories, five per cent *ad valorem.*
Carpets and Setrenjees.....	Seven and a half per cent.

* Woollens, "including all articles manufactured from wool, or worsted thread or yarn, which may be imported from the United Kingdom of Great Britain and Ireland, on British registered ships, or Indiant built ships, trading under the provisions of the 30th Section of the Act 53, Geo. III. cap. 155, and other Acts containing similar provisions, are exempted from the duty on imports, by Section 2, Regulation 4, 1815. *Vide Sequel.*

Enumeration of Goods.	*Rates of Duty.*
All canvas (except such as is made of sunn or hemp, or other material of country growth, or manufacture.)	Five per cent, on importation by sea.*
Gunnies, ...	Five per cent *ad valorem.*
Gunny Bags, ...	
Putties, and Chutta,.....	
Thread,.....	Liable to the same duties with cotton piece goods.
Tape, and Fringes,.....	
Indigo, ...	On importation, or transit; five per cent on a fixed valuation of one hundred rupees per factory maund. An additional export duty of two and a half per cent, on the produce of the Vizeer's dominions, on exportation by sea.†
Sugar,.....	Five per cent ad valorem.
Jagry,.....	
Goor and Syrup, . . .	

A DRAWBACK shall be allowed of two and a half per cent, on exportation to Europe or America

* Canvas, cordage, and other marine stores, being the produce or manufacture of the United Kingdom, are also exempted from the import duty, by Section 4, Regulation 4, 1815, if imported as specified in the preceding note.

† In consequence of there being reason to believe that the prescribed duty, on the exportation by sea of indigo manufactured in the Vizeer's territories, had been evaded, by with-holding the rowannah, and declaring it to be the produce of the British territories, it is declared in Section 2, Regulation 6, 1814, "that all indigo which may be intended for exportation by sea, and for which the rowannah may not be produced by the exporters, shall be deemed and taken to be the manufacture of the Vizeer's dominions; and shall be subject to the payment of the duty of two and a half per cent, established on the exportation of all indigo of that description, if it be exported on British bottoms; and of seven and a half per cent if it be exported on foreign bottoms." But see the provisions in Section 8, Regulation 4, 1815, hereafter stated, respecting drawbacks on Indigo exported to the United Kingdom.

Beetlenut;

Enumeration of Goods	*Rates of Duty.*
Beetlenut, ...	Of the growth of Bengal, or imported by land or sea; seven and a half per cent on a fixed valuation of five rupees per factory maund.
Kuth or Kutch,.....	Five per cent, on a fixed valuation of eight rupees per factory maund.
Oil and Oil-seeds, Mustard and Sesamum, and all other vegetable or animal oils.	Seven and a half per cent *ad valorem*.
Cocoanuts, either with or without the bark, ...	Five per cent on the valuation of twenty rupees per thousand.
Wax, and Wax Candles,..	Ten per cent at a fixed valuation of forty-five rupees for wax, and seventy rupees for candles, per factory maund.
Long Pepper, and its root (called Piplamoor,)	Seven and a half per cent on a fixed valuation of twelve rupees per factory maund.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Dry Ginger, ...	Seven and a half per cent on a fixed valuation of four rupees per factory maund.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Aromatick Seeds, viz. Anise, (or moury, or sonf). Calizeerah, (or Nigella.) Cardamums, Coriander, (or Dhunia.)..... Cummin, (or Jeerah.)..... Jowaen (or Ajwain.).....	Seven and a half per cent *ad valorem*.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Spices; viz. Pimento, (or All Spice) Cloves, Mace, Nutmegs, Cassia and Malabathrum leaf, (or Tazpaut.) - - - - - -	Imported by sea; ten per cent ad valorem. On importation from Nepaul; two and a half per cent.
Pepper, black and white, -	Ten per cent on a fixed valuation of eleven rupees per factory maund.
Saltpetre, - - - - -	Seven and a half per cent on a fixed valuation of four rupees per maund.
Gums and *Drugs*, viz. Camphire, - - - - - Cherayta, - - - - - Columbo Root, - - - - Copal, (or Kahroba,) - - Galbanum, - - - - - Gum Arabick, - - - - Jutta Munsee, (or spikenard,) - - - - - - Mastick, - - - - - - Myrobalans, viz. - - - Hurrah, - - - - - - Buhera, - - - - - - Ownla, - - - - - - Myrrth, - - - - - - Soonamoky leaf, - - - Senna and Storax. - - -	Imported by sea; ten per cent *ad valorem*. On the produce of the country; seven and a half per cent.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Assafœtida—ten per cent *ad valorem*.

Saffron, - - - - - -	Ten per cent on a fixed valuation of thirty-five rupees per seer.

Stick

Enumeration of Goods.	*Rates of Duty.*
Stick Lac, - - - - -	Five per cent on a valuation of ten rupees per maund, of eighty Calcutta sicca weight.
Lahi Joory Lac, - - -	
Shell Lac, - - - - -	
Cake Lac, and - - - -	
Seed Lac. - - - - -	

A drawback shall be allowed of two and a half per cent on exportation by sea.

Galingall, - - - - -	Seven and a half per cent on importation by sea, on a fixed valuation of eight rupees per maund.
Kullinjun, - - - - -	
Perfumes and *Fragrant Drugs*, viz. Otter or essential oils, Fooleyl Teyl, or perfumed Oils. - -	Seven and a half per cent *ad valorem*. If imported from the territories of Nepaul; two and a half per cent.
Ambergris, Civet, Musk, Luban or Benjamin, Gundiberoza or Frankincense, Putcha Pat, Rose Water, and Keorah Water. - - - -	
Dying Drugs, viz. Attah, Awl Root, or Morinda, Crimdana, or Cochineal, Coossum Flower, Dhye Flower, Hursinghar Flower, Loadh, Munjeeth or Madder, Toond Flower.	Seven and a half per cent *ad valorem*; the produce of the country, or imported by sea.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Wood used in dying, viz. Buckum or Sapan wood, and Sandal Ahmer, or Red Sandal Wood.	Seven and a half per cent; the produce of the country. or imported by sea.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Fragrant Wood, viz. White or yellow Sandal Wood, Ugger or Aloe Wood, and Tuggur.	Seven and a half per cent; the produce of the country, or imported by sea.

A drawback shall be allowed of two and a half per cent on exportation by sea.

Wood used in Cabinet Work, viz. Mahogany and all other sorts imported by sea, - Chuckrassy, Toon, and Sitsol, - -	Seven and a half per cent *ad valorem*
Timber, viz. Saul, Sesoo, Jarrel (whether Red or white), and Soondry,	Ten per cent *ad valorem.*
Chunam. - - -	Ten per cent on a valuation of forty rupees per maund of eighty Calcutta sicca weight; to be levied at Calcutta and Dacca only.
Cordage and other Marine stores, with the exception of Sunn, Hemp, or other materials for Cordage, the produce of the country. - -	Five per cent on importation by sea. *
Coir. - - -	The produce of the Maldives or Ceylon, &c. five per cent, on a fixed valuation of nine rupees per factory maund.

* See former note on *Canvas*, and Section 4, Reg. 4, 1815, in sequel.

Resins,

Enumeration of Goods.	*Rates of Duty.*
Resins, viz. Dammer, whether foreign or the produce of the country, Resin and Turpentine, imported by sea.	Five per cent.
Pigments, viz. yellow Ochre, or Goopy Muttee, Vermillion, Ranga Muttee or Indian red, Minium, Prussian Blue, Peorie, and Verdigrease.	Ten per cent *ad valorem*.
Quick Silver,	Ten per cent on importation; on a fixed valuation of four rupees per seer.
Tin, and Tutenague.	Ten per cent on importation; on a fixed valuation of twenty rupees per maund. *
Copper and Brass,	Ten per cent on a fixed valuation of twenty rupees per maund on importation by sea, whether wrought or unwrought; the same on inland importation, but to be levied on the unwrought metal only. If imported from Nepaul, two and a half per cent, whether wrought or unwrought. †

Leads

* Instead of the fixed valuation here specified, it is enacted by Section 6, Regulation 1, 1812, that "a duty shall be levied on tin and tutenague, at the rate of ten per cent *ad valorem*, on importation." But Section 3, Regulation 4, 1815, stated at length in the sequel, exempts from the import duty tin, as well as copper, iron, steel, lead "and all other metals, in an unmanufactured state, being the produce of the United Kingdom, if imported in the manner specified" in that regulation.

† See preceding note. It is further provided by Section 7, Regulation 1, 1812, that instead of the fixed valuation, "a duty shall be levied on the importation by sea, of copper and brass, whether in a wrought or unwrought state, at the rate of 10 per cent

Enumeration of Goods.	*Rates of Duty.*
Lead (Pigs) milled and sheet Lead, and small Shot, - - -	Ten per cent ad valorem on importation. *
Iron and Steel, and manufactured Iron and Steel,	Ten per cent on the market value, on importation by sea; † and on importation by land at the nearest custom houses to the frontier; on a fixed valuation of seven rupees per maund. On importation from Nepaul; two and a half per cent.
Arms, viz. Swords, Matchlocks, Shields, ; - -	Two rupees per Matchlock, one rupee for a Sword, and four annas for a Shield, on importation or transit.
Arsenick (white), red Arsenick or Realgar, yellow Arsenick or Orpiment (Hurtaul.) - - - -	Ten per cent *ad valorem*.
Sulphur or Brimstone. - -	Ten per cent *ad valorem*.
Allum. - - - - - -	Ten per cent *ad valorem*.
Borax and Tincal. -	Five per cent *ad valorem*. If imported from Nepaul, two and a half per cent.
Vitriol or Tootcah. - -	Five per cent *ad valorem*.
Salammoniac. - - -	Five per cent on a fixed valuation of twenty five rupees per factory maund.

cent *ad valorem* A duty shall also be levied at the same rate, on the importation by land, of copper and brass, in an unwrought state." Section 8, of the same regulation, adds that "copper and brass imported from Nepaul, whether wrought or unwrought, will continue subject to the established duty of two and a half per cent, to be levied however *ad valorem*."

* See preceding note on tin, and Section 3, Regulation 4, 1815.

† Ditto.

Alkali,

Enumeration of Goods.	Rates of Duty.
Alkali, Soojee Muttee or Natron. - - - -	Five per cent on a fixed valuation of one rupee per maund.
Soap. - - - -	Five per cent on a fixed valuation of eight rupees per maund.
Tallow, Tallow Candles, and Hogslard. - - -	Five per cent *ad valorem*, on exportation by sea only.
Salted Provisions. - -	Five per cent *ad valorem*, on exportation by sea only.
Purser's stores. - - -	Five per cent *ad valorem*, on exportation by sea only.
Raw Hides, Leather. -	Five per cent *ad valorem*.
Boots, Shoes, and Slippers.	Five per cent *ad valorem*.
Furs. - - -	Five per cent *ad valorem* on importation. If from Nepaul, two and a half per cent.
Hookas, Vidre Ware, and Hooka Snakes. - -	Seven and a half per cent, *ad valorem*.
Stone Plates. - - - -	Five per cent *ad valorem*.
Chanks or Saunks. - -	Seven and a half per cent *ad valorem*.
Cowries. - - - -	Five per cent *ad valorem*, on importation at Calcutta, Chittagong, or Balasore only.
Beads, Malas, or Rosaries.	Seven and a half per cent *ad valorem*, on importation by sea only.
Coral. - - - -	Ten per cent *ad valorem*.
Elephant's Teeth, Ivory. -	Seven and a half per cent, at a fixed valuation of one hundred and ten rupees per maund.
Cow Tails, and Chowries.	Five per cent on importation. If from Nepaul, two and a half per cent.
Bengal Paper. - -	Five per cent *ad valorem*.

Enumeration of Goods.	*Rates of Duty.*
Wines, and Europe Goods.* -	Ten per cent to be levied on their importation by sea only.
Carriages. - - -	Seven and a half per cent imported by sea, to be levied under the rules specially enacted for Calcutta.
Pipe staves, - - - - -	Seven and a half per cent.
Gin, - - - - - - - Brandy, - - - - - - Rum, and - - - - - Arrack, - - - - - - -	Ten per cent on importation from Europe, or America. Thirty per cent on importation from Foreign territories in Asia.
Tea, - - - - - - -	Ten per cent.
China Goods, - - - -	Seven and a half per cent on importation by sea.
Coffee, - - - - - -	Seven and a half per cent on importation by sea.
Sago, - - - - - -	Seven and a half per cent on importation by sea.
Rattans, - - - - - -	Seven and a half per cent on importation by sea.
Tobacco, - - - - - -	On importation by land or sea into the province of Cuttack; ten per cent to be levied at the custom house of Balasore only. †

Additional duty on foreign articles re-exported by sea.

Second. "Articles the produce or manufacture of the Vizeer's territory, or of Nepaul, or of any other foreign territory, which shall have paid an import, or transit duty, not exceeding two and a half per cent, shall be liable, on re-exportation by sea from Cal-

* See provision of Section 5, Regulation 4, 1815, hereafter stated, with respect to *Europe Goods*. The import duty on "Wines and Spirits of every description" is not altered however by that regulation.

† By Section 9, Regulation 1, 1812. "Tobacco imported by sea, into the port of Chittagong, is subject to a duty of ten per cent *ad valorem*, at the custom house at Chittagong."

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cutta, Chittagong, or Balasore, to the payment of an additional duty of two and a half per cent."* *Third.* "Goods specified in the above enumeration, which shall have paid the prescribed duties once, whether on their importation, or transit, shall not be liable to any further duties in passing through the provinces subject to the Presidency of Fort William; unless such goods, or any of them, be expressly made liable to any further duty by some future regulation; nor shall the said goods be subject to any duty whatever on being exported from the said provinces, save and except the export duties, to which any of the articles so enumerated, may be liable under the provisions of this regulation, on being exported therefrom by sea." § 13. *First.* "All goods not specified in the preceding enumeration, with the exception of the articles exempted from duty by the following clause, shall, on their importation by sea, or exportation from Calcutta, Chittagong or Balasore, by sea, be subject to the payment of a duty of five per cent."† *Second.* "The following articles, imported by sea, shall be exempted from the payment of the duty specified in the preceding clause."

Goods which shall have paid duty once, shall not be liable to any further duties.

Exceptions.

Section 13. Goods not specified in the preceding enumeration, to be subject to a duty on importation or exportation by sea only.

Articles excepted from the foregoing rule.

Teak Timber used for ship building.

Imports.

* In Section 6, Regulation 3, 1811, (respecting the *trade of foreign nations*) this clause is re-enacted with the following addition, after *two and a half per cent*; "if exported on British bottoms; and seven and a half per cent, if exported on foreign bottoms." There being reason to believe that, on exportation by sea of piece goods manufactured in the Vizeer's territories, the payment of the prescribed duty had been evaded; the exporters withholding their rowannahs, and declaring the goods to have been manufactured in the British territories; it is further provided by Section 25, Regulation 1, 1812, "that all piece goods which may be intended for exportation by sea, and for which the rowannahs may not be produced by the exporters, shall be deemed and taken to be the manufacture of the Vizeer's dominions; and shall be subject to the payment of the duty of two and a half per cent, established on the exportation of all piece goods of that description, if they be exported on British bottoms; and of seven and a half per cent if they be exported on foreign bottoms." But see provisions for drawbacks, on exports to the United Kingdom, since enacted in Regulation 4, 1815. *Sequel.*

† This clause is re-enacted by Section 7, Regulation 3, 1811, (relative to the *trade of foreign nations*) with reference to the goods not specified in the schedules annexed to that regulation; and with the following addition, after *five per cent*; "if imported, or exported, on British bottoms; and of ten per cent if imported, or exported on foreign bottoms." But see provisions of Regulation 4, 1815, respecting imports from, or exports to, the United Kingdom.

Hor-

Horses.*

Bullion and Coin.†

Precious Stones and Pearls.

Goomotoo, and other articles (coir excepted) used for the manufacture of cordage.

Exports.

The following articles exported by sea shall in like manner be exempted from the payment of the duty specified in the preceding clause:—

Grain, of all sorts,

Precious Stones and Pearls,

Opium, purchased at the Company's sales,

Carriages,

Palankeens,

Spirits, distilled after the European manner, in any part of the provinces under this Presidency, provided the quantity exported shall exceed one thousand gallons."

Section 14. Transit duty not to be levied on any article not expressly declared liable thereto.

§. 14. No article whatever shall be liable to the inland or transit duty, that is not expressly declared to be so, by this or

* A duty on horses imported into Bengal by sea, or through the district of Cuttack, after having been imported by sea into any part of the territory subject to the Government of Madras or Bombay, was subsequently imposed by Sections 10 to 16, of Regulation 1, 1812; and modified by Regulation 17, 1812. Horses and Mares being less than 14 hands in height, were made liable to a duty of 400 rupees each; or if exceeding that size, but under 14 hands and an inch, to a duty of 200 rupees each. Horses imported from Europe, and Ponies from Pegue, or the Eastern Islands, being exempted from the duty, it fell chiefly on the horses imported from Arabia, and the borders of the Persian Gulph. It was consequently found injurious to the exported trade from Bengal to that Gulph; whilst at the same time it operated nearly as a prohibition on the importation of horses by sea, instead of restricting the import of horses below a certain size only, as intended. "Sections 13, 14, 15, and 16, Regulation 1, 1812, the whole of Regulation 17, 1812, and generally all provisions which relate to the establishment of duties on horses imported into places immediately dependent on the Presidency of Fort William," were therefore rescinded by Section 2, Regulation 14, 1813.

† This exemption is still in force, with respect to *imported* coin or bullion. But Section 3, Regulation 12, 1813, directs that "a duty shall be levied on all coin or bullion *exported* from Calcutta, Chittagong or Balasore, either to America or Europe, at the rate of three per cent, if exported on British vessels; and of six per cent, if exported on foreign bottoms. Provided, however, that nothing contained in the present, or in any former regulation, shall be construed to authorize the collection of any duty on the exportation of coin or bullion to any other place excepting Europe and America, as aforesaid."

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some future regulation; and any collector or deputy collector of customs, who, in contravention of this rule, shall levy any inland or transit duty, upon any article not expressly enumerated herein, or in some future regulation, shall, on proof thereof at the suit of the party, be liable to a fine to Government of three times the amount of the duty so collected by him, in addition to such damages and costs as may be further awarded against him by the court. It is moreover hereby declared, that the articles enumerated in the foregoing section are to be subjected to the duties specified therein as merchandize only. Second-hand articles, or articles which may be in the possession of individuals, evidently in private use or consumption, are not to be subjected to any tax.*

Penalty on a breach of this rule.

Second-hand articles or articles in private use not to pay any duty.

§. 15. *First.* "In cases in which the duties established by this regulation are directed to be levied on the value of the goods, such value shall be specified in books, which shall be open for public inspection at the several custom houses. "The collectors of the Government customs are accordingly required to prepare and submit, with all practicable expedition, to the Board of Revenue, and Board of Commissioners respectively, for the approbation of the Governor General in Council, a book of rates, specifying the value of the several articles chargeable with duty *ad valorem*, under the present regulation." *Second.* "The book of rates shall be published for general information in the cutcherries of the magistrates, and of the collectors of the land revenue, as well as at the different custom houses throughout the provinces. The book shall moreover be revised and republished under the above rules, on the first day of May of every third year.†" *Third.*

Section 15. Book of rates to be prepared.

And submitted for the approval of the Governor General in Council.

How to be published for general information.

* In explanation of this rule, it is declared by Section 17, Regulation 1, 1812, "that no articles belonging to private individuals shall be exempt from the payment of the established duties, excepting second-hand articles actually in the possession and use of the owners; and such articles shall be passed, or otherwise, at the discretion of the collector."

† It is further enacted by Section 3, Regulation 6, 1814, "with a view to the convenience of the community, and the most accurate adjustment possible of the customs, that the book of rates shall be revised and republished annually, and as soon after the expiration of each year as possible."

Valuation at one custom house to bind all other custom houses.

Rule to be observed, if the article liable to duty *ad valorem* should be omitted in the book of rates.

Damaged goods to be rated at their actual value.

Coin in which the duties are to be paid.

Standard fixed for the maund weight, when not otherwise specified.

Section 16. Special rules respecting exports to, and imports from, the territory of Rampore.

"The valuation of goods by the book of rates, at the custom house from which the rowannah for them may have been taken out, shall bind all other custom houses to abide by the same rate of valuation, wherever the goods may go." *Fourth.* "If any article liable to pay duty *ad valorem* should be omitted in the book of rates, (which it is expected however can very rarely happen,) the value shall be taken to be the prime cost, proved by the invoice, or otherwise to the satisfaction of the collector, with an advance of twenty per cent thereon. The special rule contained in Clause Third, Section 48, shall moreover be generally applied to cases of this description." *Fifth.* "In cases where goods shall have been damaged, and shall not be in what may be considered a merchantable state, they shall be rated at their actual value, instead of being subjected to the payment of duties on the valuation specified in this regulation, or in the book of rates." *Sixth.* "The duties payable under this regulation shall, in the ceded and conquered provinces (excepting Cuttack) be levied in Lucknow sicca rupees, of the standard established by Regulation 45, 1803; in the province of Benares, in the Benares rupee; and in all the other provinces, including Cuttack, they shall be levied in Calcutta sicca rupees, of the standard established by Regulation 35. 1793." *Seventh.* "In all cases in which the duties are directed to be levied upon the maund, without specifying any particular weight or kind thereof, the maund shall be taken to be of eighty Calcutta sicca weight to the seer, throughout all the provinces subject to this Presidency." §. 16. "Goods and articles of trade, exported from the province of Rohilcund into the territory constituting the Jaghire of Rampore, shall not be subjected to the payment of any duty, on being exported from such province into the territory aforesaid. All goods and articles of trade, imported into the province of Rohilcund from the Rampore Jaghire, being of the description of goods and articles of trade, which are liable to the payment of Government customs under this regulation, shall be subject to the payment of the same import duties, to which the same goods and articles of

trade

trade are subject, on importation from the dominions of the Newab Vizeer." §. 17. "In levying the duties prescribed in this regulation, goods imported into, and exported from, the city of Delhi, and the circumjacent territory, to which the regulations of the British Government have not been extended, shall be subject to the same duties, as are levied on goods imported into, and exported from, foreign states." §. 18. *First.* "Such parts of Regulations 6, and 7, 1804, as relate to the levying of duties on the importation of salt, whether the produce of the British territories, or of foreign states, into the ceded and conquered provinces or into the province of Benares, and on the exportation of salt from any of the said provinces, are hereby rescinded." *Second.** "Duties shall be levied on all salt, not being salt purchased at the Company's sales in Calcutta, whether the produce of the British territories or of any foreign state, on the importation of such salt into, or on the transportation of such salt through, any part of the ceded and conquered provinces; and on the importation of such salt, which may not have previously paid the established duty, into the province of Benares; at the following rates:

Section 17. And regarding the city of Delhi and its dependencies.

Section 18. Parts of Regulations 6, and 7, 1804, relating to duties on the importation or exportation of salt in the ceded and conquered provinces, and in the province of Benares, rescinded.

Regulation 17, 1810, §. 2. Rates of duty imposed on salt in lieu of those imposed by Section 18, Regulation 9, 1810.

On Lahoree Salt, ...	One rupee per maund.
Saumer ditto, ...	
Doodwana ditto, ...	
On Balumba Salt, ...	Twelve annas per maund.
Bararee ditto, ...	
On Salumba Salt, ...	Eight annas per maund.
Furrah ditto, ...	
On any other alimentary Salt, excepting salt purchased at the Company's sales in Calcutta.	Four annas per maund.

Third. "All alimentary salt, excepting salt purchased at the Company's sales at Calcutta, passing or attempting to pass through any part of the ceded and conquered provinces or

Regulation 9, 1810, §. 18. Clause 3. Penalty for passing or attempting to pass salt contrary to this regulation.

* The clause here stated is substituted by Section 2, Regulation 17, 1810, for the original second clause of Setion 18, Regulation 9, 1810.

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the province of Benares, without having paid the prescribed duty, and without being accompanied by a rowannah, will be liable to seizure and confiscation."* *Fourth.* "Such parts of Regulations 6, and 7, 1814, as have not been altered, or otherwise modified by this regulation, shall remain in full force." *Fifth.* "Orders were passed by the Governor General in Council, under date the 30th of September 1804, empowering the officers holding the appointment of collectors of the Government customs in the ceded provinces, to levy the duties established by Regulations 6, and 7, 1804, on the importation and exportation of salt in the said provinces. The collection of such duties in the conquered provinces was, at the same time, entrusted to the officers employed in the collection of the land revenue in the said provinces. It is now declared, that the duties to be levied on the importation and exportation of salt, in the ceded and conquered provinces, under the rules prescribed by Regulations 6, and 7,

Clause 4. Remaining parts of Regulations 6, and 7, 1804, to remain in full force.

Clause 5. Duties on salt to be confiscated as forming a part of the Government customs, to be levied under this regulation.

* In addition to the stated penalty, it is added, in Section 3, Regulation 17, 1810, "that the boats, carts, bullocks, buffaloes, camels, horses, mules, and asses, used in the conveyance of such salt, shall be similarly liable to confiscation;" and the following further provisions are made by Sections 4, 5, 6, and 7, of that regulation. §. 4. "The confiscation of the boats, carts, and cattle, shall be decided in the same manner as the confiscation of the salt; and when confiscated, they shall be similarly disposed of by public sale; and the proceeds shall be appropriated in the same mode as the proceeds of the confiscated salt." §. 5. "All native officers, employed under any custom house in the ceded and conquered provinces, shall on conviction to the satisfaction of the Board of Commissioners, of having connived at the importation or transportation of any salt unaccompanied by a rowannah, be liable to a fine not exceeding six months salary: such fine to be enforced by the civil courts, in the mode prescribed for the execution of decrees of court, on production, through the pleader for Government, of an attested copy of the order of the Board imposing such fine." §. 6. "Darogahs of police and tehseeldars are hereby authorized and required, on application from any of the officers of the department of customs, or on information in writing from individuals, to seize all salt, which may be liable to confiscation under Clause Third, Section 18, Regulation 9, 1810, in consequence of its not being accompanied by a rowannah; and shall receive, on the confiscation of such salt, the same rewards as are allowed by Section 33, Regulation 9, 1810." §. 7. "Such officers shall, within twenty-four hours after making such seizure of salt, communicate the seizure, with a full report of all circumstances connected with it, to the authority under which they are placed; and any magistrate, or collector of revenue, to whom any such seizure may be thus communicated, shall immediately transmit the report of the local officers to the Board of Commissioners; who will proceed to determine on the confiscation, under the authority vested in them by Section 33, Regulation 9, 1810."

1814,

1804, and in the present section of this regulation, shall be considered as forming a part of the Government customs, such duties shall accordingly be levied by the collectors of the Government customs, and their respective deputies, in the ceded and conquered provinces, subject to the several provisions of this regulation, as far as they may be applicable to the same." §. 19. *First.* "Rowannahs, or custom house passes, shall be granted under the following rules." *Second.* "No rowannahs shall be granted, excepting upon a written derkhaust, or application, signed by the proprietors of the goods, or their authorized agents, or the persons in charge of the goods. The derkhaust shall specify the following particulars:

Regulation 9, 1810, Sec. 19. Rules for granting rowannahs.

Particulars to be specified in the application.

The merchant's name,
The sort of goods,
The quantity of goods,
The number and description of packages,
The value of goods,
Whence brought or imported."

Third. "Should any attempt be made to pass, at any custom house, a larger quantity of goods than that which is specified in the derkhaust; or to pass goods of greater value than those specified in the derkhaust; in the former case, the whole of the goods shall be liable to confiscation; and in the latter case, the goods shall be subject to double duty." *Fourth.* "Rowannahs, for which application may be made on any day before twelve o'clock, shall be prepared and delivered at a period not later than the following day." *Fifth.* "Every rowannah shall be signed and sealed by the collector, or deputy collector, the darogah, and the tavildar or cashkeeper; the latter of whom shall deliver the rowannah, upon the duties being paid." *Sixth.* "The darogah, and the tavildar, shall each have the custody of the seal of his office. Should either of the said officers be convicted of allowing his seal to be removed from his possession, he shall be subject to dismission from his office, under the rules provided in such cases by Regulation 5, 1804, and Regulation 8, 1809." *Seventh.* "The

Penalties for attempting to pass goods in larger quantities, or of superior value, to what is specified in the application.

Rowannahs applied for before twelve o'clock, to be delivered the following day, and not later.

By whom rowannahs are to be signed, sealed, and delivered.

Penalties for native officers permitting their seals to go out of their possession.

Rowannahs in what language

To be written. Particulars to be stated in them.

"The rowannahs shall be written in the Persian language and character, and in the Hindoostanee language and Nagree character, in the ceded and conquered provinces; and in the province of Benares; and in the Persian and Bengal languages and characters, in the provinces of Bengal, Behar, and Orissa, (including Cuttack;) and shall contain the following particulars:

The number of the rowannah,
The date of the rowannah,
The merchant's name,
The sorts of goods,
The quantity of the goods,
The number and description of packages,
The value of the goods,
The rate of the customs,
The amount of the customs, and
The places from whence the goods have been brought, or imported; and to which they are proceeding."

Section 20. Rowannahs to be taken out for goods for the Company's investment. Such goods not liable to duty.

§. 20. Commercial residents, or agents, and others employed to provide goods for the Honorable Company's investment, shall take out rowannahs to accompany the goods provided on account of the Honorable Company's investment, which are to pass a custom house station. Such rowannahs shall be granted upon official application for them being made in writing to the collectors of the customs; but no customs, duties, or fees whatever, shall be levied on such goods."* §. 21. "Registers of all rowannahs,

Section 21. Registers of rowannahs to be kept at the several custom houses.

* This rule is still in force, as far as it prohibits the actual levy of duties on the Company's investment. But in pursuance of the Statute 53, Geo. III, cap. 155, §. 67, orders were issued by Government to the officers of the Revenue and Commercial Departments, on the 27th May 1814, for charging in the commercial accounts, under the proper head of "Duties on the Company's Investment," the amount of all duties payable on the Company's exports and imports; and crediting the same, as part of the *customs*, in the accounts of the territorial revenue. The legislative enactment, above referred to, directs "that all rates, customs, and duties of export and import, which shall be charged in the East Indies, or other places under the Government of the said Company, upon any goods, wares, or merchandize of or belonging to the said Company, shall be charged in the books of account of the said Company, to the debit of the commercial branch of their affairs; and all such rates, customs, and duties, which shall be so charged upon any goods, wares, or merchandize

wannahs, granted at each custom house, shall be kept in the English and Persian languages, according to such form as the Board of Revenue, and Board of Commissioners, shall respectively prescribe." §. 22. "All rowannahs granted under this Regulation, (excepting the *maafee* rowannahs specified in Section 28,) shall be considered to be in force for one year only; calculating from the date on which they shall be respectively granted. After such period, the goods covered by the said rowannahs, in the event of their being brought or removed within the limits of chokies of any of the custom houses established by this regulation, shall be again subject to the established duties, in the same mannar as if the duties on such goods had never been paid. Rowannahs shall be deliverrd up and cancelled, whenever an opportunity offers for requiring it; as in the case of exportation by sea; or in the cases specified in Sections 25, and 26." §. 23. *First.* "A rowannah granted at any one custom house shall be current, under the rules contained in this regulation, throughout the provinces subject to the Presidency of Fort William, and shall exempt the goods covered by it, in their passage to any place within the said provinces, as well as on exportation from those provinces, (unless the goods be expressly made liable to a further export duty) from the payment of any further duty under this regulation; and for any detention for a period longer than may be requisite to enable the officers of any other custom house to ascertain whether the goods and the rowannah correspond. The detention of the goods for this purpose (whether they be goods provided for the Honorable Company's investment, or belonging to private individuals) shall never exceed one day. The collector, after having made the necessary

Section 22. Rowannahs to be in force for one year only.

Section 23. Rowannahs granted at any one custom house to be current throughout the provinces, subject to the Presidency of Fort William.

Goods accompanied by rowannahs shall not be detained for examination more than one day.

chandize of or belonging to the said Company, or which shall be received by the said Company in the East Indies or parts aforesaid, upon any goods, wares, or merchandize of any private merchant, trader, or other person, shall be placed in the books of account of the said Company, to the credit of the territorial revenues of the said Company; and all such rates, customs, and duties, so placed to the credit of the territorial revenues of the said Company, shall be deemed and taken to be part of such territorial revenues; and shall be subject to the controul of the said Board of Commissioners, in like manner, to all intents and purposes, as any other part of such territorial revenues."

examination,

examination, shall, if the goods correspond with the rowannah, certify the same upon the back of the rowannah. If the collector shall find (in the case of private goods, that the merchant has taken up more goods, or any other goods, in addition to those specified in the rowannah, the whole of the goods shall be liable to confiscation. If the collector shall have reason to believe, that goods superior in value to those specified in the rowannah are attempted to be passed under such rowannah, he shall cause a part of the goods to be opened and examined in the public cutcherry, in his own presence ;* and if any such fraud shall be discovered, the collector shall levy double duties on the real value of the goods composing the whole dispatch." *Second.* "Should goods, passing as being provided for the Honorable Company's investment under the rowannahs directed to be granted by Section 20, be in any instance found not to correspond with such rowannahs, they shall nevertheless be permitted to proceed to the place of their destination ; but the collector shall certify upon the back of the rowannah in what respect they have not corresponded therewith ; and shall, with the least practicable delay, report the circumstances of the case to the Board, to whose authority he (the collector) may be subject ; transmitting at the same time a copy of his report to the Board of Trade for their information." §. 24. "The collector at each custom house shall keep a register of all rowannahs granted at other custom houses, which shall accompany goods passing his station, in the same form as the register prescribed to be kept of rowannahs granted by himself." §. 25. "Should a merchant be desirous of dividing a dispatch of goods into smaller quantities, after having taken out one rowannah for the whole, he shall be entitled, at any of the custom houses, to as many rowannahs as he may require, on identifying the goods, and paying a further duty of one half-per cent thereupon, and surrendering the

Penalties on discovery of deviations in quantity, or value, from the goods specified in the rowannahs.

Rules to be observed when goods stated to belong to the Honorable Company, may not correspond with the rowannahs.

Section 24. A register to be kept at each station of rowannahs for goods passing the station, granted at other custom houses.

Section 25. A dispatch of goods may be divided into smaller quantities, and rowannahs granted for those quantities, on certain conditions.

* It is provided by Section 18, Regulation 1, 1812, "that the duty of examining, and appraising the goods referred to, may be assigned by the custom master for the town of Calcutta to the Company's examiner and appraiser of piece goods."

original

original rowannah."* § 26. "It is declared that a rowannah shall be considered to be in force for one year only. Should a merchant, however, be desirous of removing his goods from the place to which they may have been carried under the original rowannah, after the expiration of one year, he shall be entitled to an exchange rowannah for another year, at any of the established custom houses, the goods being identified to the satisfaction of the collector, upon paying a duty of one-half per cent thereon; provided that the old rowannah be produced for renewal; and be delivered up before the expiration of the period for which it was issued; that the necessary enquiry may be immediately made, and evidence taken to identify the goods; and it is hereby declared, that the production of the old rowannah, subsequently to the expiration of its term, will not entitle the holder of it to a fresh rowannah in exchange for it." § 27. "The rule contained in the preceding section is to be considered applicable to goods or articles which are the produce of the country; and to goods imported from foreign territories inland; and which are respectively alleged to have already paid duty. All such goods must be identified not only by the production of the original rowannah, but by other satisfactory evidence, before the holder of it will be entitled to a renewal of it." § 28. "Articles which are not the produce of the country, but exclusively imported by sea, and which must of course have paid the duties to which they are liable on importation, shall be allowed to pass inland without question; and for that purpose shall be furnished with *maafee*, or free rowannahs, by the collectors of customs at Calcutta, Chittagong, and Balasore, on the payment of a duty of one-quarter per cent, and

Section 26. Merchants entitled to exchange rowannahs on certain conditions.

Section 27. For goods being the produce of the country or imported from foreign territories inland, which shall have already paid duty.

Section 28. Goods imported by sea to be furnished with maafee rowannahs, and allowed to pass inland without question.

* Inconvenience having been experienced from the numerous portions into which merchants, in some cases, divided their cargo of goods, it was further enacted by Section 5, Regulation 19, 1812, with a view of restraining this practise, "that whenever a merchant may be desirous of sub dividing a cargo or dispatch of goods into two or more portions, he shall pay, over and above the additional duty of one half per cent, already established, a fee of four annas for every rowannah so obtained in exchange for the original rowannah, for the use of the collector or deputy collector of customs, according to such orders as may be passed on that point by the Governor General in Council."

Duty and fee to be paid on taking out maafee rowannahs.

a fee at the rate of one rupee per mille, on the value of the goods; the presumption that the customs have been duly levied at the time of importation, being sufficient to supersede the necessity for any other enquiry. The fee above specified is to be levied for the benefit of the collector; or in the case of his having a deputy, for their joint benefit, in such proportion as the Governor General in Council, or the Vice President in Council, may direct." § 29.

Section 29. Registers to be kept of exchanged rowannahs.

"At each custom house there shall be kept a register of all exchanged rowannahs granted therefrom, specifying the date and number of its original rowannah; and the custom house at which it was issued.

And of maafee rowannahs.

A register shall likewise be kept of all *maafee* rowannahs; specifying the date and number thereof; with the article for which, and the name of the person to whom, it may have been granted." § 30.

Section 30. Duties to be paid and rowannahs taken out previously to goods passing or attempting to pass within the limits of the chokies.

First. "All the duties payable under this regulation, with the exception of such cases as are or shall be otherwise expressly provided for, shall be paid, and the rowannahs for covering the goods shall be obtained, previously to the goods passing or attempting to pass within the limits of any of the chokies, dependent on the custom houses established by this regulation. Moreover, as those chokies have now been confined within very narrow limits, with a view to relieve the commerce of the country from vexatious interruption; and it is to be supposed, that the owners of goods, liable to the payment of the transit duties, can never find any difficulty in covering them by a rowannah, previously to their being moved; it is hereby declared, that should any goods be brought within the limits of a chokey, without being accompanied with a rowannah, or be otherwise found in transit without such a rowannah, (although there be no attempt clandestinely to evade the payment of the duties,) they shall in any such instance be chargeable with double duties; and if the goods be seized after having clandestinely passed, or in the attempt clandestinely to pass within the limits of any of the said chokies, without having paid the established duties, and without being accompanied by a rowannah, they shall be liable to confiscation."

A breach of this rule to subject the goods to double duty.

And if the passing, or attempt to pass, be clandestine to confiscation.

Second. "Provided, however, that if any person should dispute, refuse,

In cases of non-payment of the

refuse, or omit payment of the required duties, without any attempt clandestinely to evade the payment of them, such part of the goods as may be deemed equal in value to the duties, or double duties due on them, shall be secured, and deposited in the custom house, until such duties shall be paid. And in the event of the duties not being liquidated within the period of three months, the goods shall, at the expiration of that period, be sold at public sale." *Third.* "After deducting the dudies and custom house charges, the balance of the sales of goods sold under the preceding clause shall be paid to the owners of them, on their making application for the same." *Fourth.* "The collectors of the customs shall report to the Board of Revenue, and Board of Commissioners respectively, the goods remaining unredeemed, at the expiration of the three months, previously to proceeding to the sale of them.* §. 31. "The transportation of cannon, and of all descriptions of fire arms, or military stores, excepting on account of, or under a pass from, the Britith Government, being prohibited, the collectors and all officers of the customs are required to seize all such cannon, arms, or military stores, as shall be attempted to be transported in disobedience of this prohibition. The cannon, arms, or stores so seized, shall be liable to confiscation. This rule, however, is not to be considered as applicable to fowling pieces, pistols, swords, or any other arms, which

required duties without any clandestine attempt to evade them, a part of the goods, adequate in value to the duties or double duties due on them, to be detained as security.

And to be sold, if the duties be not liquidated in three months.

Any surplus proceeds of the sale to be paid to the owners.

The Board's sanction to be obtained previously to proceeding to such sales.

Section 31. Officers of the customs required to seize all warlike stores attempted to be illegally transported.

Such stores liable to confiscation.

* The following additional provisions are contained in Sections, 22, 23, and 24, of Regulation 1, 1812. § 22. "With a view to prevent the evasion of the duties by a rowannah being used to cover a second or more dispatches of goods, it is hereby declared, that all articles liable to the payment of a custom duty, when imported into a town, are to be taken to the nearest chokey-darogah, in order that they may be examined; and it shall be the duty of the darogah to certify, on the back of the rowannahs, the date on which the goods may pass his chokey into the town. Without such certificate, goods are not to be permitted to be passed." § 23. "With a view also to prevent a rowannah, used for goods imported into one town, from being again used for covering a dispatch of other goods of a similar nature into any other town, it is hereby declared, that on goods being exported from any other town into which they may have entered under cover of a rowannah, the owners of them must cause their rowannahs to be endorsed by the collector as having passed out of the town." § 24. "In case any goods shall be discovered within the line of chokies, they shall, notwithstanding they may be accompanied with a rowannah, be chargeable with double duties, or be liable to confiscation, unless the rowannahs are endorsed in the manner prescribed in the above two sections."

may

may be in the possession of individuals, evidently for private use."

Section 22. Re-enacted in Section 4, Regulation 13, 1816. Importation of foreign opium into the Company's provinces prohibited.

§. 32. "The importation of opium, the produce or manufacture of the territories of the Newab Vizier, or of any foreign country, into any of the provinces, subject to the immediate Government of the Presidency of Fort William, is prohibited."* § 33. *First.* "Whenever goods shall be detained, on the ground of their being liable to confiscation, the collector shall, with all practicable expedition, report the case, for the determination of the Board, to whose authority he may be subject." *Second.* "In the event of goods being confiscated under this regulation, (with the exception of contraband opium, or arms, or military stores, to which none of the rules contained in this section are to be considered as having any application,) they shall be sold by public auction, and the net proceeds shall be divided as follows:

Section 33. Collectors to report to the Board without delay, all cases of goods liable eventually to confiscation.

Proceeds of goods confiscated and sold under this regulation, how to be disposed of.

One-fifth to the collector or deputy collector.

Two-fifths, in equal proportions, to the informer, and to the officers of Government making the seizure.

Two-fifths to the Company."

The Board empowered to release goods, or remit penalties, in certain cases.

Third. "The Board of Revenue and Board of Commissioners are hereby respectively empowered, in cases in which there shall appear to them sufficient cause for so doing, to direct the release of any goods which may have become liable to confiscation, or to remit any other penalties which may have been incurred for the breach of any rule contained in this regulation." *Fourth.* "The two Boards are hereby further empowered to order double duty to be levied, in lieu of any higher penalty which may be incurred under this regulation, in cases in which there shall appear to them ground for a mitigation of such penalty." *Fifth.* "Provided, however, that in both of the two preceding cases, if the goods

And to commute higher penalties for double duty and double commission.

In what manner Informers are to be remunerated in such cases.

* Section 32, of Regulation 9, 1810, contained further provisions for the seizure of contraband opium by officers in charge of the customs, and for its delivery to the judge of the zillah, having jurisdiction in the case. But these are rescinded by Section 2, of Regulation 13, 1816; which has been recently enacted, to include the whole of the rules in force respecting the manufacture and sale of opium; and will be stated at length in the sequel, under the head of *Opium Monopoly.*

shall

shall have been seized on the information of an informer, and shall be clearly liable to confiscation, the Boards respectively shall direct such compensation to be made to the person who gave the information (not exceeding the amount which he would have been entitled to, if the confiscation had actually taken place) as they may deem equitable and proper; and the amount of such compensation shall be levied upon the goods, under the same rules as are prescribed in Clauses Second, Third, and Fourth, of Section 30, for levying the duties or double duties referred to therein." §. 34. "In lieu of the commission and fees, which the collectors of the customs have heretofore been authorized to levy for their own benefit, those officers shall be entitled to receive a commission on the amount of the duties realized by them, and by their respective deputies, on the public account, at such rate as the Governor General in Council, or the Vice President in Council, may determine. Provided, however, that if in any case, the person appointed to, or holding the office of collector of the Government customs, should likewise hold the office of collector of the land revenue, such person shall only be entitled to draw a moiety of the said commission on the amount of the duties so realized." §. 35. "The deputy collectors of the customs, excepting at Calcutta, shall receive a fixed salary; and shall not be entitled to any commission on their collections; but those officers shall be entitled to receive, in all cases in which a seizure may be made by them, the proportion of one-fifth of the produce of confiscated goods under Clause Second, Section 33."

Section 34. commission to be drawn by the collectors of customs.

To be reduced to one half, if the same person hold the office of collector of the land revenue.

Section 35. Deputy collectors to receive fixed salaries.

§. 36. "With a view to provide against the embezzlement of the public money, or improper detention of papers or accounts, by native officers in this department, the provisions in Sections 15, 16, 17, 18, 19, 20, and 21, of Regulation 3, 1794, (extended to Benares by Regulation 5, 1800,) and in Regulation 33, 1803, extended to the conquered provinces by Regulation 8, 1805, are hereby declared to apply to all descriptions of native officers who may be employed under the present regulation, and who may be en-

Section 36. Certain provisions of Regulation 3, 1794, and other Regulations, relative to cases of embezzlement of the public money, or detention of papers, extended to officers of the customs.

entrusted with the receipt of money, or the charge of accounts."

Section 37. No collections to be made by officers of the customs, but such as are authorized by this or some future regulation.

§. 37. "No collections whatever, either as customs, duties, commission, fees, or under any other denomination, shall be levied by any of the officers employed at the custom houses, or chokies, excepting such collections as are or may be authorized by this regulation, or by any other regulation which shall be hereafter enacted in the prescribed manner."

Section 38. Penalty of dismission for a breach of the foregoing rule.

§. 38. "Any native officer proved to have been guilty of a breach of the rule contained in the foregoing section, will, of course, be liable to be dismissed from his employment, under the rules provided in such cases by Regulations 5, 1804, and 8, 1809.

Complaints for such offences to be moreover cognizable by the magistrates.

Complaints against native officers employed under the collectors of customs for offences of this nature, shall moreover be considered cognizable by the magistrates; and any such native officer, on being convicted before a magistrate of having detained or stopped goods in any unauthorized manner, or of having exacted, under any plea or pretence whatever, a present, fee, or other consideration for the passage of goods or otherwise, in violation of the regulations of Government, shall be deemed guilty of extortion; and be liable to be sentenced to pay a fine, not exceeding two hundred rupees; and to imprisonment, not exceeding six months; or to corporal punishment, not exceeding thirty rattans; according to the nature and circumstances of the case, and the condition in life of the offender; and if the fine so adjudged be not paid, it shall be commutable to a further period of imprisonment, not exceeding six months, as provided with respect to other sentences of the magistrate by Section 19, of Regulation 9, 1807.

And to be punishable by fine and imprisonment, or stripes, as circumstances may warrant.

The party aggrieved may also sue for damages.

The party aggrieved shall, at the same time, be at liberty to prosecute the offender for damages in the dewanny adawlut."

Section 39. Penalty and punishment, to which persons not being officers employed by Government in the collection of the customs, will be subject, who shall exact customs or duties on any pretence whatsoever.

§. 39. "All native persons, not being officers employed by Government in the collection of the Government customs, or authorized by any regulation to collect customs or duties, who shall exact customs, or duties, of any denomination, on any pretence whatsoever, whether as principals or agents, shall likewise be deemed guilty of extortion; and on conviction before a magistrate, shall be

be liable to the penalties of fine and imprisonment, to the same extent, and with the same qualification for commuting the fine to further imprisonment, if it be not paid, as the magistrate is empowered to adjudge against native officers convicted of extortion under the preceding section: and the party aggrieved shall in like manner be also at liberty to prosecute the offender for damages in the dewanny adawlut. But nothing contained herein, shall be construed to authorize the magistrate to inflict corporal punishment in any such case, on any ground whatever." §. 40 Regulation 8, 1806, already prescribes certain rules, general and special, which are to be observed in regard to all complaints instituted against the collectors or deputy collectors of the Government customs, for acts which, under the regulations in force, may be cognizable in the city or zillah civil courts. It is hereby further provided, that in cases in which the Governor General in Council, under the rule contained in Section 3, of that regulation, may order any such complaint to be tried in a city or zillah court, either as a public suit against Government, or as a private suit against the party whose acts are complained of, the several rules in force, relative to suits preferred against collectors of the land revenue, in matters in which they are in like manner amenable to those courts, shall be applied (as far as the same may be applicable to the particular case) to the whole of the proceedings in the suit in question; and to the enforcement of the judgment when finally passed; as well as to the appropriation or disbursement of the sum or sums which may be adjudged in favor of either party as costs or damages therein. And the Board of Revenue and Board of Commissioners respectively shall exercise the same discretionary power and control in regard to conducting the defence of any suit, if it be a public suit, (as well as in regard to prosecutions which may be instituted at the suit of Government) and to carrying the suit through the different stages of appeal, if necessary as they would exercise in the like cases relating to suits connected with the land revenue." §. 41. "The collectors of the Government customs are empowered to propose to the Board of Revenue

Exception of corporal punishment.

Section 40. Rules under which complaints against collectors or deputy collectors of the customs are to be tried and determined.

Powers to be exercised by the Board of Revenue and Board of Commissioners in regard to such cases.

Section 41. Collectors empowered to propose rules for

The better collection of the customs.

Revenue and Board of Commissioners respectively, for the consideration of the Governor General in Council, such rules as may appear to them calculated to promote the better collection of the customs." §. 42. "All the rules in this regulation, respecting collectors of the Government customs, unless where the contrary is expressed, shall be considered equally applicable to their deputies. But all accounts, official reports, and communications, of the deputies, shall be transmitted to the two Boards through the collectors, their immediate superiors; and all propositions for the removal or appointment of the native officers attached to the several stations of Meerut, Illahabad, Furruckabad, and Mirzapore,* shall likewise be made through the same channel (subject of course to the provisions of Regulations 5, 1804, and 8, 1809,) and shall be communicated to the Board of Revenue or Board of Commissioners, with the collector's opinion thereon. The deputy collectors of customs are moreover to pay strict obedience to all orders and instructions they may receive from the collectors, to whose authority they may respectively be subject, provided they be not contrary to this or any other regulation in force at the time."

Section 42. Rules in this regulation applicable to deputies and assistants.

Further rules for their conduct.

MIRZAPORE SPECIAL RULES.

Section 43. Mirzapore special rules for the decan trade.

§. 43. *First.* "The following amended rules are to be observed in the collection of the customs in the decan trade, at the *mundovy*, or mart, of Mirzapore." *Second.* "The *telashee*, or search and inspection, of the goods imported by land, by the decan beoparries, is to take place on the arrival thereof at the south gateway of the mundovy or mart." *Third.* "The import duty, to which the goods may be liable under Section 12, is to be paid in proportion as the said beoparries dispose of the whole, or any part of their investments; upon which rowannahs for the goods are to be issued in the names of the original importers. Moreover, in pursuance of that part of the arrangement proposed by the

When and where the imports are to be examined.

When the duty on imports is to be paid.

Division of the import duty between the importer and purchaser.

* Mirzapore having become the station of the principal custom house in the province of Benares, by the provisions of Section 2, Regulation 12, 1813, the rule here stated is of course no longer applicable to that station; but to the stations of the deputy collectors at Benares and Ghazeepore.

decan

decan merchants, and sanctioned by the Governor General in Council in December 1788, which further respects the mode of payment of their import duties at Mirzapore, the deputy collector,* is authorized to receive one-half of the said import duty from the importers, and the other moiety from the person or persons to whom they dispose of such goods in the mart, for transportation and sale beyond its limits; it being understood and stipulated, that if the decan importer, instead of selling his goods thus brought into the mart, shall choose, in view to a better market, to carry them to any place out of the said mart, he is to pay the remaining half of the fixed duty himself, so as to make up the whole of the import duty to which the goods may be liable under Section 12." *Fourth.* "With a further view to the accommodation of the decan beoparries, in regard to their exports from the mart of Mirzapore to the decan, the (deputy) collector is authorized to grant *chore chillies*, or passes, with one seal only, instead of rowannahs, for all goods passing from the mart of Mirzapore to the decan; provided, that such goods shall have been first imported into the mart under a rowannah, certifying that the prescribed duties have been collected thereon; or that the prescribed duty shall have been levied on their importation into the mundovy, or mart, without a rowannah. But all goods, the prescribed duty on which shall not appear to have been once paid, must be cleared out, and be accompanied by a regular rowannah, according to the form heretofore in use, previous to their being passed for exportation to the decan."

Rules under which passes may be granted, instead of rowannahs.

CALCUTTA SPECIAL RULES.

§. 44. "In addition to the general rules prescribed in this regulation, the following special rules shall be observed in the collection of the duties directed to be levied on imports and exports by sea, to and from the port of Calcutta.

Section 44. Calcutta special rules.

IMPORTS.

Imports.

§. 45. *First.* "A tide-waiter shall go on board every vessel that may come to anchor in the port of Calcutta; and enter

Section 45. Tide-waiter to go on board of

* Now the collector, under Section 2, Regulation 12, 1813.

Vessels on their arrival.

in his book her name; the nation to which she may belong; the name of her commander; from what port she may have sailed last; and every other necessary particular concerning her.

Notification to be inserted in the tide-waiter's book.

Second. "The following notification shall be inserted in the tide-water's book:

"FORT WILLIAM, (DATE.)

"*To all Commanders and Supercargoes of Vessels trading to the port of Calcutta.*

"You are hereby directed, immediately on your arrival at this port, to transmit to the custom house a true manifest upon oath, of all the goods and merchandize loaded on board of your vessel; specifying at what port they were received, and to whom they belong; either on account of the owners, or on freight; together with their marks and numbers, agreeably to the annexed form. You will likewise be pleased to deliver into my office your pass and other credentials concerning your ship; which shall be returned to you after they shall have been inspected."

(Signed) A. B.

"*Collector of the Customs.*"

Manifest to be subjoined to the notification.

Third. "The following form of the manifest shall be subjoined to the notification."

Manifest of the cargo of the ship A. from B. Commander Captain C. under English colours:

Marks.	Numbers.	Packages.	Quantity of Goods.	Quality of Goods.	Where Shipped.	To whom consigned.

Master or supercargo to deliver in his manifest at the custom house.

Fourth. As soon after the arrival of the vessel as may be practicable, the captain, master, or supercargo, shall deliver in his manifest at the office of the collector of the customs; and the collector, or his deputy, shall annex the following form of an affidavit to the manifest:

"A. B.

"A. B. (Commander or Supercargo) of the ship C. maketh oath and saith, that the annexed manifest contains, to the best of his knowledge and belief, a true and just account of all goods and merchandize imported on the said ship C. at the port of Calcutta." *Fifth.* "The master, or the supercargo, shall next proceed to swear to his manifest before one of the Calcutta justices of the peace, and shall return it to the collector of the customs, with a certificate from the police office, purporting that he has delivered into that office a list of the European sailors in his ship, specifying their names and the countries to which they are subject; and has entered into a bond not to suffer any of his crew to come on shore with any kind of offensive weapons, at any time of the day or night. No merchandize shall be permitted to be landed from any ship, or vessel whatever, until the above rules shall have been observed; nor until the collector of the customs shall have received from the master attendant the copy of a list of all Europeans on board, (including the name of the commander of the ship or vessel, the names of the officers and crew, and of any passengers who may have arrived in her,) which the commanders are further required to deliver to the pilot under whose charge the ship or vessel may have entered the river. But when the above forms shall have been observed, and the prescribed duties shall either have been paid, or sufficient security shall have been taken for the amount of them, consisting either of a deposit of goods, or of Company's paper, from the owner or freighters of the cargo, they shall be permitted to land the goods." *Sixth.* "No permission shall be given for the landing of any cargo, or goods, belonging to the captains or officers of ships or vessels importing at Calcutta, or of any baggage belonging to passengers that may come in them, excepting the cargoes, goods, or baggage, of the persons named in the preceding clause." *Seventh.* "All goods and packages without exception, imported from sea, shall be landed at the custom house; and if landed or attempted to be landed at any other place, either clandestinely or otherwise, they shall be liable to confiscation." *Eighth.* "Particular care shall be taken by the collector of the customs to prevent

Affidavit to be annexed to the manifest.

Manifest to be sworn to.

Certificate required from the police office.

And list of Europeans on board, from the master attendant.

All which forms being observed; and the duties either paid or security being taken for them, the cargo may be landed.

No permission to be given for landing any cargo or goods other than what is specified in the preceding clause.

All packages to be landed at the custom house.

Rule to be observed regarding vessels or craft lying opposite the custom house.

prevent vessels mooring or lying, between the north-west bastion of the old fort, and the export warehouse wharf, nearer than the middle of the stream; and no boats or small craft, excepting such as may be employed in landing goods, are to be allowed to remain within the said limits." *Ninth.* "In landing the cargoes of vessels, every separate boat-load shall be accompanied with a note, addressed to the collector of the customs, specifying the quantity and quality of the goods. The collector of the customs shall sign an order on such separate note to weigh or examine the goods specified in it, and to pass them. No goods shall be landed without a note or permit; and great care shall be taken that no more goods are passed than the quantity specified in the permit." *Tenth.* "When the cargo shall have been landed, the boat, notes, or permits mentioned in the preceding section, shall be compared with the manifest; after which the collector of the customs shall proceed to make out bills for the duties demandable thereon, under the several provisions of this regulation." *Eleventh.* "Should any master or supercargo of a vessel fail to deliver a full and true manifest of all the goods imported on his vessel, (which manifest must exhibit as well the goods laden on account of the master, or super-cargo, or owner of the vessel, as the goods laden on freight) upon the same being proved to the satisfaction of the Board of Revenue, to whom the collector of the customs shall in every instance report the case, the goods not manifested, if landed on account of the master, or supercargo, or owner, shall be subject to confiscation. If laden on freight, the master or supercargo shall be liable to a penalty, not exceeding the value of them. The penalty shall be payable immediately, whenever the master, or supercargo, may be adjudged liable to it, by the Board of Revenue." *Twelfth.* "Should the master or supercargo refuse to pay the penalty, the Board of Revenue are authorized to prohibit any goods, remaining on board of the vessel, from being landed; and further to cause a pilot and port-clearance to be withholden from the vessel, until the penalty shall have been paid." *Thirteenth.* "Provided

Exception.

Rules to be observed in landing cargoes.

Rules to be observed upon the cargoes being landed.

Bills for the duties to be made out.

Penalty for not manifesting goods.

Case of a refusal to pay the penalty.

Exception to

vided that, in the case of the Company's ships, the commanders are not required to insert in their manifests either the goods laden on account of the Company, or the goods laden on the privilege of their officers; but the officers must severally deliver manifests of their own goods. In the event of any officer of a Company's ship omitting to manifest any of the goods imported on his privilege, such goods shall be liable to confiscation. Moreover as the manifests, which the commanders and officers of the Honorable Company's ships are required to produce, sometimes include goods which have been already disposed of at intermediate ports; and do not therefore exhibit an exact statement of the goods, which it is intended to enter at the custom house; the commanders and officers, in addition to their manifests, shall deliver in to the collector of the customs an account of the goods which they propose to land for sale; and shall execute a bond or note, engaging to pay within three months the duties which will be chargeable upon such goods. Any articles which may not be specified in this account, shall be liable to confiscation, in whatever manner they may be landed." *Fourteenth.* "Instances having occurred of private goods, freighted on the Company's ships from other ports in India to Bengal, being omitted to be manifested at the custom house, the commanders of the Company's ships are hereby required to take notice, that all such goods must be manifested at the custom house; and that, in failure thereof, the goods will be liable to confiscation." *Fifteenth.* "The amount of the pecuniary penalties which may be levied under the rule contained in clause eleventh, shall be divided in the same manner as the value of confiscated goods is directed to be divided in Clause Second, Section 33, of this regulation." § 46. "The duties on manifests shall be finally settled by the collector of the customs, without any reference to the Board of Revenue." § 47. "The duties shall be levied at the rates specified in Sections 12, and 13, of this regulation; and must be paid within the period of three months from the date of the affidavit annexed to the manifest; in default of which the deposit which may have been made of goods,

goods laden on a Company's ship.

Rules to be observed in case any goods shall have been disposed of at intermediate ports.

Private goods freighted on the Company's ships from other ports in India must be manifested.

Or will be liable to confiscation.

Pecuniary penalties levied under Clause Eleventh, how to be disposed of.

Section 46. Duties to be finally settled by the collectors without any reference to the Board.

Section 47. The Duties are to be levied at the rates specified in Sections 12, and 13. And if not paid in three months,

the deposit to be forfeited.

Section 48. Value of goods imported, how to be determined.

The invoices or bills to be produced to the collector.

or Government securities, under Clause Fifth, Section 45, shall became forfeited to the Company." § 48. *First.* "The following rules are to be considered in force for determining the value of goods imported by sea, whether on British or foreign bottoms."* *Second.* "The original invoices, or bills, of all goods imported into Calcutta by sea, or from the foreign settlements, shall be produced to the collector of the customs; and excepting in the cases where it is otherwise directed in this section, the duties shall be settled upon the amount thereof. If any additional percentage is prescribed, such percentage shall be added to the amount of the invoice or bills, and the duty shall be settled upon the aggregate." *Third.* "If the original invoice, or bills, shall not be produced to the collector; or if he shall see cause to suspect that the invoices or bills produced do not shew the true prime cost of the goods; by which is to be understood their prime cost in the country of which they may be the produce or manufacture; in either case, the duty shall be settled on the Calcutta price at the time of their importation; adding thereto the prescribed percentage, where any is prescribed." *Fourth.* "Moreover, whenever goods are passed on deposits, the original invoices or bills shall remain in the custom house, and shall not be surrendered until the whole of the goods shall have been cleared out, and all accounts of duty on them finally adjusted; and if no invoices or bills be produced, and the deposit be regulated, under the provisions of the foregoing clause, by the Calcutta price of the goods, the proprietor must give his assent in writing to that valuation, previously to the deposit being received." *Fifth.* "The duty shall be levied on the investments of the captains and the officers of the Honorable Company's ships, and on all goods whatever belonging to individuals imported from England, on the Honorable Company's or other British ships, on the price of the goods specified in the invoice, or, in the cases specified in Clause Third, upon the Calcutta price,

How the collector is to proceed if they are not produced, or if he shall see cause to suspect their accuracy.

When goods are passed on deposits, the invoices or bills to be detained until the whole shall have been cleared out.

Or, if there be no invoices or bills produced, the proprietor must give his assent in writing to the valuation upon which the deposit is regulated, before it be received.

Duty on the investments of the captains and officers of the Company's ships, and of individuals imported from England on the Company's or other British ships, to be levied on the invoice price,

* The 12th, 13th, 14th, and 15th, Clauses of this section, which had reference to imports on *foreign bottoms*, were subsequently rescinded by Section 9, Regulation 3, 1811; and distinct rules were enacted in that regulation, for the trade of foreign nations, with the ports of British India, which will be stated in the sequel.

without

without any addition to such price." *Sixth.* "British ships importing at the foreign settlements, shall pay duties in the same manner as if they imported at Calcutta." *Seventh.* "An advance of fifteen per cent shall be added to the invoice of goods, the produce or manufacture of the Coromandel Coast; and the duties shall be levied in the aggregate." *Eighth.* "The duty on goods from China shall be levied with an advance on the invoice price, of thirty per cent." *Ninth.* "The duties on Indigo, whether on importation or exportation, shall be settled on a fixed valuation of one hundred sicca rupees per factory maund."* *Tenth.* "The duty leviable under this regulation on spirits, of whatever kind, imported by sea in casks, (Batavia arrack excepted,) shall be calculated on the fixed price of thirty pounds sterling per pipe. A deduction of ten per cent for leakage will be allowed however as heretofore, provided the collector shall be satisfied that the casks have not been filled up previously to their leaving the ship, or after being landed. But if ullages or parts of casks are filled up, prior to the spirits or liquors contained in them being passed, the casks shall be gauged, and the duty shall be levied without any deduction on the actual quantity. No deduction shall be allowed after the casks shall have been removed from the wharf." *Eleventh.* "The duty on Batavia arrack shall continue to be settled at the rate of sicca rupees fifty-five per leager." *Sixteenth.* "Europe, and all other goods from sea, imported into Calcutta from the foreign settlements, shall be assessed in the same manner, as if imported into Calcutta by sea on a foreign bottom." §. 49. "No claim for a remission of duty upon liquors, or other goods, stated to have been found damaged, will be admitted, unless the condition of the goods shall have been ascertained previously to their passing the custom house. On this examination of them at the custom house, should any of them be found not to be in a merchantable state, such goods must be sold on the spot, as the condition of any re-

without any addition thereto.

British ships importing at the foreign settlements to pay the same duties as if they imported at Calcutta.

Per centage to be levied on the produce of the Coromandel Coast.

Percentage on China goods.

Fixed valuation of Indigo.

Duty on spirits to be calculated at thirty pounds per pipe. Batavia Arrack excepted.

Rules with regard to leakage or ullages.

Duty on Batavia Arrack to continue at fifty five rupees per leager.

Goods imported into Calcutta from the foreign settlements, to be assessed as if imported by sea, on a foreign bottom.

Section 49. No claim to be admitted for a remission of duty upon liquors or goods stated to be found damaged, unless the condition of the goods be ascertained previously to their passing the custom house.

* See provision for drawback in exportation of Indigo to the United Kingdom, Regulation 4, 1815. Section 8, hereafter cited.

mission

Goods not in a merchantable state, must be sold on the spot, to entitle the owner to any remission.

mission of duty; and the duty will be settled on the proceeds of the sale. But it is to be understood, that no such damaged goods will be permitted to be sold, until the proprietor or his agent shall have caused to be inserted in the Calcutta Gazette, an advertisement specifying the day and time of the sale; and the articles to be sold. Moreover all sales of damaged goods at the custom house are to be made in the presence of the collector, or his deputy; and the goods are to be lotted with the approbation of the collector." §. 50. "No packages, casks, bales, chests, or parcels of goods of any kind, shall be received in the custom house godowns, unless marked or numbered; and no receipts shall be granted for any packages not marked or numbered." §. 51. "No goods shall remain in the custom house godowns, or under the shed or verandah of the godowns, more than seven days, unless by express permission. Should any goods remain longer, they shall be liable to a charge for godown rent. Goods shall also be liable to a charge for wharfage, at half the rate usually charged for godown rent, if allowed to remain on any part of the custom house wharf beyond the period of fourteen days without permission from the collector." §. 52. "The collector of the customs shall grant receipts on application being made for them, excepting in the cases specified in Section 50, for all goods landed from ships and lodged in the custom house. The collector of the customs shall be held responsible for delivering from the custom house all goods for which receipts shall have been so granted. Should the captains, officers, or passengers, omit to take such receipts upon their goods being landed, and lodged as abovementioned, they shall not be entitled to an indemnification for any part of them, which may be lost in passing through the custom house. The receipts shall be returned on clearing out the goods." § 53. An account shall be kept by the tide-waiter, of all packages received into, or delivered out of, the godowns. § 54. Ships importing in ballast shall be reported accordingly by the master." § 55. "The collector of the customs shall report to the Governor General in Council, through

Rules respecting such sales.

Section 50. Packages, &c. of goods to be marked and numbered.

Section 51. Limitation of time for goods to be allowed to remain in the custom house godowns.

Section 52. Receipts to be granted with certain exceptions for all goods landed and lodged at the custom house.

To be returned on clearing out the goods.

Section 53. Tide-waiter to keep an account of all packages received and delivered.

Section 54. Ships importing in ballast to be reported.

Section 55.

through the Board of Revenue, whenever any arms, or military stores, private property (with the exception of fowling pieces, pistols, or other arms evidently for private use) are landed from any vessels importing at Calcutta, specifying the nature, numbers and quantity of such arms and stores; together with the name of the ship, and of the commander or consigner. The aforementioned report shall also state whether the arms or stores were originally shipped as private property, or procured from either of the Company's Governments in India." § 56. "Precious stones, though exempt from duty, must nevertheless, whether on importation or exportation, be entered at the custom house, and their value be stated, under a penalty of ten per cent on the value at which they may be estimated, after due enquiry by the custom master." § 57. "Copper, and all other goods imported from Madras, or any other of the Company's presidencies, with a certificate, specifying that such copper or goods have been taken from the Government of that presidency in payment of advances due on contracts with the Company, or have been purchased at the Company's warehouses, shall pass duty free. But to avoid any misconstruction of this rule, it is declared, that certificates of goods having paid the import duty at the other presidencies are not to entitle the goods to any exemption from duty, unless they should expressly contain one or the other of the above specifications." § 58. "The importers of goods landed expressly for re-exportation, or transhipped in port, are nevertheless to pay or deposit security for the import duties, in the same manner as if the goods had been destined for the markets of this country. Should the commanders of the Honorable Company's ships, or others, be desirous however of landing stores, or other articles, in Calcutta, merely for temporary purposes, without any view to a sale of such stores or articles, they shall have the option of either paying, or depositing security for the import duties thereon, as above prescribed; or of landing them, free of duty, upon making an application for that purpose to the collector of the customs; provided that, in the latter case, they shall, at the same time, enter into a

Collector to report whenever any arms or military stores, being private property, are landed.

Section 56. Precious stones to be entered at the custom house with their value.

Section 57. Copper and other goods imported from any of the other presidencies as having been taken from the Government thereof, to pass duty free.

Section 58. Rules respecting goods landed expressly for re exportation or transhipped in port.

Or stores or other articles landed for temporary purposes only.

bond or note to the collector, engaging to pay double duties on all such stores or articles, (and which shall be entered at the custom house expressly for re-exportation,) unless they shall be re-shipped on the same vessel within the period of three months from the date of their being landed." § 59. "Excepting in the cases of parcels or necessaries from Europe, which the custom master is to pass at his own discretion, no person or persons shall be exempted from the payment of the duties to be levied by this regulation, without the special orders of the Governor General in Council. In cases in which the Governor General in Council may deem it to be proper to grant an exemption from the established duties to individuals, the custom master will be furnished with special orders regarding such exemption." § 60. "The following rates of exchange shall be adopted in the adjustment of the Calcutta customs:

Section 59. Excepting in the cases of parcels or necessaries from Europe, no person to be exempted from the payment of the prescribed duties, without the special orders of the Governor General in Council.

*Table of Exchange for the Settlement of the Calcutta customs.**

Countries.	Coins.	Rate of Exchange.
Great Britain,.. ...	Pound Sterling,....	at 10 sicca rupees.
Germany,.....	Crown,.....	at 2 sicca rupees.
Denmark,.....	Rix Dollar, ...	at sicca rupees 1-10.
Ceylon,.....	Ditto Ditto.....	at 14 annas.
France,.....	Livre Tournois,....	at 24 for 10 sicca rupees.
Ditto,...	Mauritius Livre,...	at 48 for 10 sicca rupees.
Spain, ...	Spanish Dollar, ...	at $2\frac{1}{4}$ sicca rupees.
Portugal and.... Madeira,.....	Milrea,.....	at $2\frac{3}{4}$ sicca rupees.
Bussorah, ...	Raize Peastre, ...	at 12 annas.
China,.....	Tale,.....	at $3\frac{1}{3}$ sicca rupees.
Madras, ...	Star Pagoda,.....	at $3\frac{3}{4}$ sicca rupees.
Ditto,.....	Swamy Ditto, ...	at 4 sicca rupees.
America, ...	Currency to be converted into pound sterling as follows:	

New

* An original error in the rates of exchange for the coins of Portugal, Madeira, and China, is corrected according to Section 19, Rugulation 1, 1812.

New England,.....	By multiplying by 3, divided by 4,..	The pound sterling, to be rated as above, at 10 sicca rupees. Where the invoices are in dollars; the dollar to be rated at $2\frac{1}{4}$ sicca rupees.
Virginia, ...	Ditto Ditto, ...	
New York,.....	By multiplying by 9, and divided by 16,.....	
Pensylvania,.....	Ditto by 3, and Ditto by 5,.....	
South Carolina,. ...	By deducting $\frac{1}{17}$ part,.....	
Georgia, ...	Ditto,.....	

Section 61. Registers of imports.

§. 61. "Two registers of imports by sea shall be kept in the following forms."

FORT WILLIAM, Register of Goods imported by Sea, and of the Customs collected thereon in ———.

Register number.	Date.	Number and nature of packages.	Vessels.	From whence imported.	Vessels under what colours.	Merchant's name.	Sorts of Goods.	Quantity of Goods.	Amount of invoice or adjusted value.	Rate of Duty.	Amount of customs levied.

FORT WILLIAM, Register of Goods imported by Sea, free of Custom on ———.

Register number.	Date.	Number and nature of packages.	Vessels.	From whence imported.	Vessels under what colours.	Merchant's name.	Sort of Goods.	Quantity of Goods.	Amount of Invoice.

EXPORTS.

§. 62. "The duty on exports, excepting in cases where it may be otherwise herein directed, shall be levied on the Calcutta market price of the goods exported, deducting one-tenth therefrom." §. 63. "Articles of home produce, or manufacture, going from Calcutta to Serampore, or to any other of the foreign settlements, in the event of their being restored on the conclusion of peace, shall be subject to the same export duty as if they were exported by sea, direct from Calcutta, in a foreign bottom." §. 64. "All goods for exportation, the property of individuals, (with the exceptions hereafter to be specified) shall be shipped from the custom-house, with a permit from the collector of the customs. Goods brought for exportation from the interior of the country, previously to being shipped, shall be brought to the custom-house ghaut for examination." §. 65. "Grain may, by permission of the collector of the customs, be shipped from the ghauts, after it shall have duly entered at the custom-house." §. 66. "The goods of individuals going to England upon the Company's tonnage shall, on the requisition of the export warehouse-keeper, be sent to the export warehouse, to be shipped from thence. The goods, when sent to the export warehouse, must be accompanied by manifests in duplicate, signed by the shippers, with a certificate of the collector of the Government customs, subjoined to each manifest, stating that the duties have been duly paid: or, in the case of their being exempt from duties, that the entry prescribed in Section 74, has been duly made; without which the goods shall not be permitted to be laden." §. 67. "All applications for permits shall be made to the collector of the customs in writing; and shall specify the name of the vessel on which the goods are to be laden, the name of the commander, and the place to which the vessel is bound; and shall be accompanied by a *chellaun*, or invoice, specifying the numbers and marks of the packages; the sorts and quantities of goods in each; the place of manufacture; and the Calcutta market price thereof. After which, official bills shall be made out

Section 62. The duty, unless otherwise directed, to be levied on the Calcutta price, deducting one-tenth.

Section 63. What duties are to be levied on home produce exported from Calcutta to the foreign settlements, in the event of their being restored.

Section 64. Goods for exportation to be shipped from the custom house.

Section 65. Exception allowed with respect to grain.

Section 66. Also with respect to the goods of individuals exported to England upon the Company's tonnage, which may be shipped from the export warehouse.

Rules to be observed in such cases.

Section 67. Applications for permits to be in writing, and to contain certain specifications.

Bills to be made out for the du-

for

ties, which are to be paid, or security given for the payment of them, in ten days, before shipping the goods.

Section 68. Rules under which the collector is to proceed, if he has reason to suspect that any bale of piece goods does not correspond with the chellaun.

for the duties; (unless the goods be exempted from duty;) and the amount shall be paid, or security given for the payment of it in ten days, before the goods shall be permitted to be shipped. §. 68. "Should the collector of the customs have reason to suspect any bale of piece goods not to correspond with the chellaun, he shall summon the shipper; and in his presence, should he think fit to attend, cause the goods to be examined by the Company's examiner and appraiser of piece goods; who should they appear to him rated below the Calcutta market price, shall proceed to appraise them by that price, according to the best of his judgement; and certify his appraisement in writing, under his signature, to the collector of the customs; who shall assess the goods agreeably to this appraisement; deducting one-tenth as above directed. Should the proprietor refuse to pay the duties upon such appraisement, he shall not be permitted to ship the goods. It shall however be in the option of the proprietor, in such case, to transfer the goods to the Honorable Company, at the price so settled by the appraiser, after making the beforementioned deduction therefrom; provided the Board of Trade, to whom all such cases shall be reported by the collector of the customs, give their sanction to such transfer, and not otherwise." §. 69. "Should any bales be found to contain a greater quantity than may be specified in the chellaun, the whole of the bales, in which such excess may be found, shall be liable to confiscation; and whatever goods the same person, on the faith of his chellaun, shall have before been permitted to ship on the same vessel without examination, shall be subject to double duty." §. 70. "On exporting gruff or other goods, not being piece goods, one or more chests, bags, or packages, at the discretion of the collector of the customs, may be examined and weighed; subject to the same penalties, in case of a difference from the chellaun, as are specified in the preceding clause." §. 71. "All boats, laden with goods or merchandize from the interior of the country, shall be brought to at the custom house. The goods on any boats attempting to pass Calcutta, without permission from the collector of the customs, shall be

In what cases such goods may be transferred to the Company.

Section 69. Penalties, if any bales are found to contain a greater quantity than may be specified in the chellaun.

Section 70. Similar penalties in the case of gruff goods differing from the chellaun.

Section 71. All boats laden with goods from the interior, to be brought to at the custom house. Penalty, if they attempt to pass

be liable to confiscation." §. 72. "Provisions and stores for the use of His Majesty's navy, which are the immediate property of the Crown, may be passed free of duty, but articles of provisions furnished to His Majesty's squadron by the contractors, or their agents, are not to be exempted from the payment of the prescribed duties. §. 73. "Parcels for individuals and necessaries shall be passed at the discretion of the collector of the customs." §. 74. "Goods for exportation, free from duty, shall nevertheless be entered at custom house, in the same manner as if they were goods paying duties." §. 75. "Clause First, Section 12, already provides for allowing a drawback of a fixed per centage on certain articles specified therein, on exportation. In all other cases, not specifically provided for, goods imported expressly for re-exportation shall, on re-exportation, be allowed a drawback of two-thirds of the amount of the duty paid on their importation"* §. 76. "It is to be observed as an invariable rule not to admit any claims for drawback, unless the goods shall be exported regularly through the custom house; and be included in the manifest of the exported cargo, delivered into the custom house, by the commander or owner of the vessel, on which they may be exported; with the application for a port clearance. Nor in any case after the port clearance shall have been taken out." §. 77. "No drawback shall be allowed on the re-exportation of articles imported from sea, forming only a part of the package in which they were imported; or on any package that may not be entire as imported." §. 78. "No claim for a return of duty, upon goods stated not to have been shipped, shall be admitted after the vessel shall have quitted the anchorage at Saugur." §. 79. "Persons who may be desirous of exporting opium, purchased at the Company's sales, shall produce a certificate from the Board of Trade, or their officers, signifying

without permission.

Section 72. Provisions and stores for His Majesty's ships, to pass duty free.

Exceptions.

Section 73. Parcels for individuals and necessaries to be passed at the discretion of the collector.

Section 74. Goods though free of duty must be entered at the custom house.

Section 75. Drawback to be allowed in cases not provided for by Section 12, on goods declaredly entered for re-exportation.

Section 76. Claims to drawback not to be allowed unless the goods shall be exported through the custom house, and be regularly manifested.

Section 77. Nor on a part of the package in which they were imported, or any package not entire as imported.

Section 78. Nor for a return of duty after the vessel shall have quitted the port.

Section 79. Certificate required in the case of persons exporting opium purchased at the Company's sales.

* This section is modified by Section 21, Regulation 1, 1812; which directs "that the established drawback shall be allowed on goods imported by sea, whether the goods intended to be re-exported shall have been imported expressly for that purpose, or otherwise." It is also qualified, with respect to exports on foreign bottoms, by Section 8, Regulation 3, 1814, (hereafter stated,) which is indeed substituted for Section 75, Regulation 9, 1810: and it is further materially altered by the provisions of Regulation 4, 1815, with respect to exports to the United Kingdom; *vide Sequel.*

that

that the opium in question was purchased at the Company's sales. The certificate must specify the purchase, lot, the mark, and number upon each of the chests applied for, the name of the purchaser, the cost of the opium, and the date of the sale. Any opium not really purchased at the Company's sales, and attempted to be passed as such, or not corresponding with the certificate, shall be liable to confiscation." §. 80. "Persons desirous of sending presents, or articles for family use, to Europe, as permitted by the Honorable Court of Directors, shall pay the export duties thereupon. The parcels or packages, containing such presents or articles, the value of which shall not exceed three thousand sicca rupees, shall in future be registered at the office of the secretary to the Board of Trade; and when application is made to him for such registry, it must be accompanied by a certificate from the collector of the customs, that the duties have been duly settled. The secretary to the Board of Trade shall not register any parcel or package, or grant an order for its being received on board any of the Company's ships, without the required certificate." §. 81. "The master attendant shall not grant a pilot to any vessel, until a certificate shall be produced to him from the collector of the cus toms of the duties on her cargo, both import and export, having been paid, or settled; or of her export cargo, (if exempt from duties,) having been entered at the custom house, as directed in Section 74; together with a certificate from the police office, purporting that the commander, or supercargo, has delivered into that office a list of the European seamen embarked on the vessel." §. 82. "The pilot of every vessel, which may have obtained her clearance, shall be ordered by the master attendant not to permit any goods or merchandize to be received on board, unless the goods shall be accompanied by a certificate from the collector of the customs, of their having paid or settled the export duties." §. 83. "If the commander of the vessel shall, notwithstanding the remonstrance of a pilot, receive on board any goods or merchandize, not accompanied with a certificate as prescribed in the preceding clause; the pilot shall immediately

Opium not so purchased, but attempted to be passed as such, or differing from the certificate, to be liable to confiscation.

Section 80. Rules and limitations under which presents or articles for family use may be sent to Europe, the export duties being paid thereupon.

Section 81. The master attendant not to grant a pilot to any vessel without a certificat from the collector of the customs, which is to contain certain specifications.

And certificate from the police office.

Section 82. Pilot not to admit any goods on board a vessel which has obtained her clearance, unless accompanied by a certificate, that the export duties have been paid or settled.

Section 83. Pilot to detain the vessel if any goods be received on board by the commander, in opposition to the preceding rule.

immediately report the circumstance to the master attendant; and detain the vessel for his further orders; and all goods in such predicament, shall be liable to confiscation." Moreover, goods seized in the attempt to ship them in a clandestine manner, shall be liable to confiscation. §. 84. "Goods transhipped without permission first obtained from the collector of the customs; or shipped, or attempted to be shipped, upon any other vessel than that for which they may have been passed at the custom house, shall be subject to double duty." §. 85. "Arms, ammunition, and military stores, (with the exception of fowling pieces, pistols, or other arms in the possession of individuals for private use,) shall not be exported without express permission from the Governor General in Council; and a full compliance with all such rules and conditions as may be prescribed by his orders for the guidance of the custom master in regard to such exports." §. 86. "Two registers of exports by sea shall be kept in the following forms:

Section 84. Penalty for transhipping goods without permission, or attempting to ship them upon any other vessel than that for which they have been passed.

Section 85. Warlike stores not to be exported without permission from the Governor General in Council.

Section 86. Registers to be kept of exports.

FORT WILLIAM, Register of Goods imported by Sea, and of the Customs collected thereon in ———.

Register number.	Dates.	Number and nature of packages.	Vessels.	Where bound.	Vessels under what colours.	Merchant's name.	Place of Manufacture or produce.	Sorts of Goods.	Quantity of Goods.	Valuation.	Amount of customs.

FORT WILLIAM, Register of Goods exported by Sea, free of Customs in ———.

Register number.	Date.	Number and nature of packages.	Vessels.	Where bound.	Vessels under what colours.	Merchant's name.	Place of manufacture or produce.	Sort of Goods.	Quantity of Goods.	Amount of Invoice.

§. 87. "The

§. 87. "The collector of the Government customs at Calcutta is moreover to keep a register of all piece goods, and of Indigo imported into Calcutta from the interior of the country under rowannah, and which shall be entered for exportation by sea." § 88. "Donies, or other coasting vessels, liable to the duties of pilotage, shall not be permitted to land or ship their cargoes, until the master attendant shall have certified to the collector of the customs, that those duties have been paid, or that sufficient security has been given for the payment of them."* § 89. "The communication between

Section 87. Further register to be kept of piece goods and indigo imported from the interior for exportation by sea.

Section 88. Donies not to be permitted to land or ship their cargoes without a certificate, that the duties of pilotage have been paid or secured.

Section 89. Of communi-

* The following rules for a duty payable by donies, are contained in Regulation 7, 1801. §. 2. "Every dony, exporting from the river Hooghly, without taking a pilot in the service of Government, shall pay, as a consideration for the benefit derived from the Company's buoys, a duty at the rate of one sicca rupee for every hundred maunds of the burthen of the vessel; with this exception, that a dony of a burthen which shall exceed six thousand maunds, shall pay only sixty rupees; this being the highest duty to which any dony shall be subject, whatever may be her burthen." § 3. "The duty shall be collected by the Marine Paymaster. Upon any dony being about to sail, the master of the vessel shall make application to the master attendant for a certificate of the amount of the duty payable on account of the vessel, which certificate the master attendant is required to grant in the following form:—

"This is to certify, that the duty payable on the dony ——— No. ——— "of the burthen of ——— maunds ——— master, in pursuance of Section 2, Regulation 7, 1801, is sicca rupees "A. B

"Calcutta, Master Attendant.

"this day of 180

"To C. D.

"Marine Paymaster."

The certificate must be delivered to the Marine Paymaster; who, upon the duty being paid, is required to furnish the master of the dony with a certificate in the following form:—

"This is to certify, that the duty on the Dony ——— No. ——— master, "has this day been paid C. D.

"The ——— of ——— "Marine Paymaster.

"180

"To E. F.

"Collector of the the Government Customs at Calcutta."

This certificate shall be delivered to the collector of the Government customs; and until the certificate shall have been so delivered, the collector shall not grant a part clearance for the dony. § 4. "Should any dony depart, or attempt to depart without paying the duty, the master attendant shall stop the dony; and shall report the circumstances of the case to the Marine Board; which Board, upon being satisfied that there was an intention on the part of the master of the dony to evade the payment of the duty, shall direct double duty to be levied on the dony; and until

tween the Board of Trade and the collector of customs, in all matters relative to the imports and exports of the cargoes and the tonnage of the ships of Honorable Company, or to the transfer of piece goods authorized under Section 68, shall be direct; and the collector shall obey all such orders as he may receive from that Board, conformably to this rule; reporting the same for the information of the Board of Revenue, in cases where it may be necessary that they should receive information on the subject." §. 90. "In every instance, either of imports or exports, where the duties have been paid without any objections having been made to the rate of assessment, the collector is to consider it an invariable rule to reject all claims for a return of any part of the duties so paid." §. 91. "All goods imported, or exported, shall be weighed by the Company's scales and weights." §. 92. "The kyallee dustoor, abolished by Section 2, Regulation 57, 1795, shall remain finally abolished." §. 93. "All such general rules for the collection of the Government customs, contained in this regulation,

Section 90. When duties have been paid without objection, claims for a return of any part of them are to be invariably rejected.

Section 91. All goods to be weighed with the Company's scales and weights.

Section 92. Kyallee dustoor to remain abolished.

Section 93. The general

until such double duty shall be paid, the dony shall not be permitted to depart from the port. The additional duty shall be carried to the account of the pension fund of the pilots." § 5. "All donies trading to, or from, the port of Calcutta, shall be numbered, and the master attendant shall cause the numbers to be painted on the sterns of the vessel." § 6. "A register shall be kept at the office of the master attendant of all donies trading to, or from, the port of Calcutta, in the following form:—

Register of Donies trading to, or from, the port of Calcutta.

Names.	Nos.	Burthen in maunds.	Names of the Masters or Syrangs.	To what port the Donies belong.

Section 7, of the same Regulation, viz. 7, 1801, contains also the following rule, which does not appear to have been repealed. § 7. *First.* "Whereas the Governor General in Council has been pleased, by an order in Council, dated the 16th July 1801, and published in the Calcutta Gazette, to direct, that a magazine be erected at Atchepore, for the reception of gunpowder of ships entering or lying in the river Hooghly, it is hereby enacted, for the purpose of defraying the expense of the erection of the said magazine, and of the establishment of officers to be attached thereto, that every vessel importing at the port of Calcutta, and every vessel exporting therefrom (donies and his Majesty's ships excepted), shall pay a duty of one anna per ton, for every ton of the tonnage of the vessel, to be calculated according to it's measurement. The duty shall be collected by the marine paymaster, when he levies the money for the pilotage of the vessels." *Second.* "In case the commander or owner of any vessel shall refuse to pay the duty established in this section, the collector of the Government customs shall not grant a port clearance to such vessel until the amount of the duty shall have been discharged."

as

as may not be at variance with the foregoing special rules, shall be considered applicable to the collection of the Government customs of Calcutta on imports and exports, whether by land or sea; and shall be adhered to accordingly."

rules contained in this regulation, when not at variance with the special rules, are to be adhered to in the collection of the Calcutta customs.

CHITTAGONG,* BALLASORE AND HOOGHLY.

SPECIAL RULES.

Special rules for Chittagong, Ballasore, and Hooghly.

§. 94. "In the valuation of goods imported by sea, the collectors of the Government customs at Chittagong and Ballasore shall be guided by the rules prescribed in this regulation for the valuation of goods imported by sea at Calcutta, as far as those rules may be applicable." §. 95. "In the valuation of goods for exportation by sea, the market price of the goods, at the ports from which they may be exported respectively, at the time of their exportation, shall be taken as the standard upon which the prescribed duties are to be levied, unless where otherwise directed by this regulation." §. 96. "Sections 75, 76, and 77, for regulating the drawback allowed on exports from Calcutta, shall equally apply to the ports of Chittagong and Ballasore." §. 97. *First.* "Goods imported into any of the foreign settlements on the river Hooghly by sea, shall, on their exportation from the said settlements into the interior of the country, pay to the collector of the Government customs at Hooghly the same rates of duty as the goods would have been charged with if they had been imported at Calcutta in a foreign bottom. After the payment of such duty, the collector of customs at Hooghly shall grant a rowannah, which shall exempt the goods from the payment of any further Government customs in their passage to any place with the limits of the provinces subject

Section 94. The Calcutta rules of valuation to be applied in settling the value of goods imported by sea.

Section 95. Goods exported to be valued at the market price.

Unless where otherwise directed by this regulation.

Section 96. Drawback to be allowed on exports the same as on exports from Calcutta.

Section 97. Duties payable at the custom house at Hooghly on goods which, having been imported into any of the foreign settlements by sea, shall be exported therefrom into the interior of the country. After the payment of which, such goods shall not be subject to any further inland duty.

* It has been recently deemed advisable to establish an additional custom house at Cox's Bazar, in the southern division of the district of Chittagong, and the following provision for that purpose is enacted in Section 2, Regulation 12, 1816. "A custom house for the collection of Government customs shall be established at Cox's Bazar, or at such other station in the southern division of the district of Chittagong, as may be deemed expedient; and the general rules, which are at present in force, or may be hereafter enacted with respect to the said customs in other parts of the country, shall be considered applicable to the said station of Cox's Bazar, in common with those established in other parts of the country."

to this presidency, or in their passage through the said provinces to any place out of the limits thereof, to which they shall be exported inland". *Second.* "Goods which shall be brought from the interior of the country for importation into the foreign settlements on the river Hooghly, shall, in like manner, previously to their being allowed to pass into the said settlements, be charged by the collector of customs at Hooghly with the same duties which such goods would be liable to on exportation from Calcutta by sea in a foreign bottom."* *Third.* "Provided, that in the cases specified in the two preceding clauses, if the goods shall have already paid the Government customs at Calcutta, or any other custom house, the amount of the customs so paid, shall be set off and deducted from the duties required to be levied under this section."

Duties payable at the custom house at Hooghly, on goods imported into the foreign settlements from the interior of the country.

Rule in regard to the cases specified in this section, if it shall appear that the goods have already paid to the Government customs at Calcutta or any other custom house.

In addition to the rules which have been stated from Regulation 9, 1810, it is provided by Section 26, Regulation 1, 1812, that "Woollens, whether the manufacture of Europe, India, or any other country, shall not be shipped for exportation from Bengal to China, on any account whatever." The following additional rules were also enacted, on the 26th August 1815, by Regulation 4, of that year, entitled "*a regulation for modifying some of the provisions at present in force, for the collection of customs on certain articles of commerce, in the territories immediately dependant on the Presidency of Fort William.*"†

Regulation 1, 1812, Section 26. Woollens not to be exported from Bengal to China.

Additional rule enacted in Regulation 4, 1815.

IMPORTS.

§. 2. "Woollens, including cloths of sorts, blankets, hose, Guernsey shirts, caps, and generally all articles manufactured from

Section 2. All articles manufactured from wool, worsted

* The operation of this clause was suspended by Section 4, Regulation 6, 1814, so long as the foreign factories should continue subject to the British authority; with a provision, that, during such period, goods imported into them from the interior of the country, should "be subject only to the same rate of duty, as goods exported from Calcutta on British bottoms."

† The policy of this regulation, as far as it respects imports from the United Kingdom, is stated in the preamble to be "with a view to encourage the exportation of the staples and marine stores of Great Britain."

wool,

wool, or worsted thread or yarn, which may be imported from the United Kingdom of Great Britain and Ireland, on British registered ships or Indian-built ships, trading under the provisions of the 30th Section, of the Act 53d George III, Cap. 155, and other acts containing similar provisions, shall be exempt from duty; any thing contained in any former regulation to the contrary notwithstanding." §. 3. "Copper, tin, iron, steel, lead, and all other metals, in an unmanufactured state, being the produce of the United Kingdom, if imported in the manner specified in the preceding section, shall also be exempt from duties." §. 4. "Canvas, cordage, and other marine stores, being the produce or manufacture of the United Kingdom, if imported in the manner specified in Section 2, shall be exempt from duties." §. 5. *First.* "All articles, the produce or manufacture of the United Kingdom, not specified in the preceding sections, (with the exception hereafter stated,) on importation at the ports of Calcutta, Ballasore, or Chittagong, shall be charged with a duty of (2½) two and a half per cent, to be adjusted according to the provisions established by Regulation 9, 1810, or any other regulation in force." *Second.* "All articles, the produce or manufacture of foreign Europe, (with the exception of wines and spirits,) on importation at the ports of Calcutta, Chittagong, or Ballasore, on British registered ships, or Indian-built ships, trading under the provisions of the 30th Section, of the Act 53d George III, Cap. 155, and other subsequent acts, shall be subject to a duty of five per cent." *Third.* "Wines and spirits of every description, imported from Great Britain or Ireland, shall continue subject to the same rate of duty with which they are chargeable, under Regulation 9, of 1810, and any other existing regulations." §. 6. "It is to be clearly understood, that the articles specified in the preceding sections, if imported otherwise than according to the provisions of the acts of Parliament, regulating the direct and circuitous trade between the United Kingdom and India, shall continue subject to the payment of the duties now in force under the existing regulations." §. 7. "If the established duties, on goods specified

thread or yarn, imported from the United Kingdom on British registered ships, or India-built ships trading under legal authority, shall be exempt from duty.

Section 3. Unmanufactured metals, the produce of the United Kingdom, imported in a similar manner, also exempted from duties.

Section 4. Canvas and other marine stores, the produce or manufacture of the United Kingdom, also exempted from duties.

Section 5. All other articles except wines and spirits, the produce or manufacture of the United Kingdom, shall be charged with a duty of 2½ per cent.

All articles, the produce or manufacture of foreign Europe, with exception to wines and spirits, shall be subject to a duty of 5 per cent.

Wines and spirits imported from the United Kingdom, shall continue subject to the duties specified in Regulation 9, of 1810, and other existing regulations.

Section 6. The articles above specified, if imported otherwise than as described in Section 2, shall be subject to the duties specified in the existing regulations.

Section 7. The goods above

fied in the preceding sections, shall have been paid at any port in the territories subject to the British Government in India, no further duty shall be levied upon their transit from port to port, within the same territories. A regular certificate of such payment, under the signature of the principal officer of the custom house, at which such duties may have been levied, shall be furnished to the collector of customs or other proper officer, at every port to which such goods may be brought, after the first payment of duties."

Enumerated, on which duties may have been paid at any other port in British India, shall not be liable to further duty on transit from port to port.

EXPORTS.

Section 8. Drawback to be allowed on indigo, the produce of the territories immediately dependant on Fort William, when exported to the United Kingdom.

§. 8. *First.* "Indigo, the produce and manufacture of the territories immediately dependant on the Presidency of Fort William, shall be allowed a drawback on exportation on British registered ships or on Indian-built ships, trading with the United Kingdom of Great Britain and Ireland, directly or circuitously, under the provisions of the Act of the 53d. George III, and subsequent acts, equal to the whole amount of the duty payable under the existing regulations." *Second.* "Indigo, the produce and manufacture of the territories of His Highness the Vizier, or of any other native power, shall be allowed a drawback at the same rate only as that article, the produce and manufacture of the British territories, although the duty levied may have been higher." *Third.* "It is to be clearly understood, that the drawbacks, mentioned in the two preceding clauses, are to be allowed only on indigo exported by sea to the United Kingdom of Great Britain and Ireland; and that no drawback will be allowed on the carriage of Indigo to any foreign settlement in Asia." §. 9. "On cotton, wool, hemp, and sunn, the produce of any part of India, a drawback of the whole amount of duty shall be allowed on exportation to the United Kingdom of Great Britain and Ireland."

Drawback to be allowed on Indigo, the produce of the territories of the Nawaub Vizier, or any other native power.

Such drawbacks only allowed on indigo exported by sea, to the United Kingdom.

Drawback to be allowed on cotton, wool, hemp, and sunn, on exportation to the United Kingdom.

§. 10. "On the exportation to the United Kingdom of all other articles, including salt-petre, which are liable to duty under existing regulations, such a drawback shall be allowed, as may reduce the duty actually receivable by Government, to ($2\frac{1}{2}$) two and a half per cent. But no drawback shall be allowed in any instance,

Rules as to drawbacks allowed on other articles, on exportation to the United Kingdom.

instance, unless the application for drawback shall be made at the time when the goods are exported." §. 14. *First.* "Nothing contained in this regulation is intended to apply to the trade conducted on foreign bottoms; the duties on which, as specified in the existing regulations, as well as the rules by which that trade is governed, are to remain on their present footing, until all the arrangements consequent on the treaties of peace shall have been completed." *Second.* "Neither is any thing contained in this regulation intended to apply to deposits made previously to the date of this regulation for the payment of duties on goods imported, the accounts of which have not yet been adjusted. All deposits made previous to the date of this regulation shall be adjusted according to the existing rates of duties."

Section 14. This regulation not applicable to trade on foreign bottoms.

Nor to deposits already made for payment of duties.

The following rules *for the conduct of the trade of foreign nations with the ports and settlements of the British nation in the East Indies; and for defining the duties to which such trade shall be subject at such of the said ports and settlements, as are immediately dependent on the Presidency of Fort William*, were established by the Court of Directors in pursuance of the powers vested in them by the Statute 37, Geo. III. Cap. 117; and enacted in Regulation 3, 1811. §. 2. "Foreign European ships belonging to any nation having a settlement of its own in the East Indies, and being in amity with His Majesty, may freely enter the British sea ports and harbours in that country, whether they come directly from their own country, or from any of the ports and places in the East Indies. They shall be hospitably received; and shall have liberty of trade there in imports and exports, conformably to the regulations established in such places. The said ships may also be cleared out for any port or place in the East Indies; but if cleared out for Europe, shall be cleared out direct for the country in Europe to which such ships respectively belong." §. 3. *First.* "Foreign European ships, belonging to countries having no establishment in the East Indies, and ships belonging to the United States of America, may (when those countries and

Rules for trade of foreign nations, with British ports and settlements in India, and for defining duties payable by them at ports and settlements dependent on Fort William.

Regulation 3, 1811, § 2. Rules under which foreign European ships, belonging to nations having a settlement in India, may enter or clear out from British sea ports in the country.

Section 3. And Regulation 6, 1812. § 2. Rules as to ships belonging to nations having no establishment in

India and American ships.

states respectively are in amity with His Majesty) in like manner freely enter the British sea ports and harbours in the East Indies. They shall be hospitably received there; and have free liberty to trade in imports and exports conformably to the regulations of the place; provided always, that they proceed from their own ports direct to the said British territories, without touching at any port or place whatever in the voyage out, except from necessity, and merely to procure refreshments or repairs in case of distress or accidents in the course of such voyage, the burthen of the proof of which necessity to rest on the parties." *Second.* "The vessels of the said European powers last aforesaid, and of the said United States, shall not carry any of the articles exported by them from the said British terrritories, to any port or place except to some port or place in their own countries respectively, where the same shall be unladen. The said ships shall not be cleared out to carry on the coasting or country trade in India; but vessels going with their original cargoes, or part thereof, from one British port of discharge to another British port, are not to be considered as carrying on the coasting trade." *Third.* "The said vessels shall not be allowed to proceed, either with or without return cargo, from the said British territories, to the settlements or factories of any foreign European nation in India, or to the territory of any Indian or Chinese potentate or power, except from the like necessity as is before described, of which the proof shall rest with them. Nor shall the said vessels be allowed to enter the river in that part of the British territory situated in Bengal, for any other purpose than that of proceeding to the port of Calcutta for trade, refreshment, or repairs." *Fourth.* "In clearing out for their respective countries, the clearance shall be a direct one to the country, European or American, to which the vessel belongs; and to no other whatever. They are to give bond, with the security of a resident in the country, that they will deliver the cargo at the port for which the clearance is made; and such bond is to be cancelled, when a certificate from a British consul, or two known British merchants resident at such port, is produced, of the bonâ fide delivery

Such ships not to export goods from the British territories in India except to their own countries respectively.

Exception as to part of their original cargoes.

Such ships not to proceed from British ports to any foreign settlement or factory; or any Indian or Chinese port, except through necessity. Nor to enter the Bengal river except for the purpose of proceeding to Calcutta.

Such Ships on clearing out, shall give bond to deliver their cargoes at the port for which the clearance is taken out.

very of the cargo there." *Fifth.* "The following is the form of the bond which is to be executed on occasions of that nature :* Form of the bond.

"KNOW all men by these presents, that we ———, are jointly and severally held and firmly bound to the United Company of Merchants of England trading to the East Indies, in the sum of sicca rupees ——— to be paid to the said United Company, their certain Attorney, successors, or assigns; for which payment well and truly to be made, we bind ourselves and each of us himself, our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, this ——— day of ——— in the year of our Lord ———.

"WHEREAS the Directors of the United Company of Merchants of England trading to the East Indies, by virtue of the powers by law to them given, did frame certain regulations for the trade to be carried on with the British possessions in India by the ships of nations in amity with his Majesty; and thereby, among other things, directed, that foreign European ships, belonging to nations having no establishments in the East Indies, and ships belonging to the United States of America, should not carry any of the articles exported by them from the said British territories to any port or place, except the ports or places of their respective countries; and that, upon such ships clearing out of the ports of the said British territories for their respective countries, the clearance to be granted to them should be directed to the country to which the ships belonged, and to no other whatsoever; and that bonds should be taken, with security, of persons resident within the British territories, conditioned, that the cargoes of the said ships, exported from the British territories, should be delivered at the ports for which their clearances were made: And whereas the above bounden ———, of the ship ———, belonging to the port of ———, in the dominion of ———, and now lying in the Hooghly river, laden with a cargo consisting of ———, has applied to the collector of customs at the port of ——— for

* The amended form of bond prescribed in Section 2, Regulation 6, 1812, is here substituted for that originally contained in the fifth clause of Section 3, Regulations 3, 1811.

a port-clearance to the port of ——— within the dominion of the said ——— which is intended to be granted to him.

"NOW the condition of the above written obligation is such, that if the goods herein before mentioned, and every part thereof, shall be really and truly exported to, and landed at the said port of ———, and if no part thereof shall be carried to and landed at any other place whatsoever; and if within ——— months from the day of the date of the above written obligation, there shall be brought and produced to the Governor General in Council of Fort William in Bengal for the time being, or to such other person at Fort William aforesaid, as the said Governor General in Council shall appoint to receive and examine the same, a certificate signed by the British consul resident at the said port of ———; or, if no British consul shall be resident at the said port of ———, then a certificate signed by two British merchants resident at the said port of ———; certifying that the said goods have been there landed; or if there shall be made full and sufficient proof to the satisfaction of the said Governor General in Council, or such person at Fort William aforesaid as the said Governor General in Council shall appoint to receive and examine such proof, that the said goods have been taken by enemies, or perished in the seas; then the above written obligation to be void; otherwise to be and remain in full force and effect."

How the pecuniary obligation and security are to be adjusted.

Sixth. "THE pecuniary obligation and security required by the foregoing clauses of this section, shall be adjusted on a consideration of the tonnage of the vessel; and shall in ordinary cases be calculated at the rate of one hundred rupees per ton; but the Board of Revenue is hereby invested with authority to reduce that rate, in cases in which any substantial reasons can be assigned for that indulgence. Applications of this nature are uniformly to be made through the collector of Government customs; who shall forward them to the Board of Revenue, with his sentiments on the subject, for its orders."

§. 4.

§. 4. *First.* Goods imported, or exported, on foreign bottoms, shall be subject to double the amount of the duties payable on goods imported, or exported, on British bottoms." *Second.* "On that principle, goods liable to duty on importation by sea, will be chargeable with duty on their importation on British and foreign bottoms respectively, agreeably to the schedule annexed to this regulation, No. 1." *Third.* "Pursuant to the same principle of subjecting the trade of foreigners to double duties, they will be precluded from the benefit of the drawback receivable by British subjects, in cases in which the drawback may be equal to a moiety of the duty paid on importation, and in cases in which the drawback receivable by British subjects may exceed a moiety of the import duty, the drawback receivable by foreigners will be adjusted on a consideration of the ultimate duty payable by British subjects, agreeably to the schedule, No. 2." *Fourth.* "In cases in which the drawback receivable by British subjects amounts to less than a moiety of the import duty, the foreign exporter will be subject to the payment of an additional export duty, agreeably to the detailed schedule, No. 3.*" The remaining sections of this regulation have been already noticed, as connected with the provisions of Regulation 9, 1810; except part of Section 8; which provides that "goods imported for re-exportation shall, on re-exportation, be allowed a drawback of two-thirds of the amount of the duty paid on their importation, if exported on British bottoms, and of one-third of the duty paid on their importation, if exported on foreign bottoms. In cases in which goods shall have paid double duty on importation, that is, the enhanced duty ordered to be levied from foreigners, a drawback shall be allowed to the exporter, of two-thirds of such duty, whether the goods be exported on foreign or British bottoms; with the exception however of those goods, on the exportation of which a specific rate of drawback is established by the table annexed to this regulation."

Regulation 8, 1811, §. 4. Goods imported or exported on foreign bottoms, subject to double duty. Duties on importation by sea on British and foreign bottoms respectively.

Trade of foreigners precluded from the benefit of the drawback in certain cases.

Liable to additional export duty in certain cases.

Section 8. Rules as to drawbacks on goods imported exportedly for re-exportation.

* It has not been judged necessary to insert the three schedules referred to in this section; which are of considerable length, and correspond, in substance, with the rules which have been stated; excepting such as have been enacted since the promulgation of Regulation 3, 1811.

Reg 10. 1816. For preventing the exportation of saltpetre on vessels, not the property of British subjects; and prohibiting the importation of it into the foreign settlements.

As connected with the subject of the foregoing rules, for the trade of foreign nations with the British ports in India, may be subjoined the following sections of a regulation, passed on the 26th April 1816, *for preventing the exportation by sea of saltpetre from any of the ports subject to the presidency of Fort William, on vessels not being the property of British subjects; and for prohibiting the importation of that article from the interior into any of the foreign settlements situated within the limits of the said presidency.** §. 2. "The exportation by sea of saltpetre, from any of the ports subject to the presidency of Fort William, except on vessels belonging to British subjects, is hereby prohibited." §. 3. "The importation of saltpetre from the interior into any of the settlements, ports, factories or possessions, subject to the dominion of any foreign European state, and situated within the limits of the territories dependent on the presidency of Fort William, except in the cases provided for in Section 8, of this regulation, is hereby strictly prohibited." §. 4. "All saltpetre attempted to be exported by sea from any of the ports subject to the presidency of Fort William, otherwise than on vessels belonging to British subjects, shall be liable to seizure and confiscation; and all saltpetre attempted to be imported into any of the foreign settlements referred to in the above section, shall be liable to seizure and confiscation, together with all boats, carriages, and cattle on which it may be laden." § 5. "The officers of customs are hereby required to use their utmost endeavours to enforce the above prohibition; for which purpose they are hereby authorized and enjoined to detain all saltpetre which they may discover in the act of being shipped on board any foreign vessel, lying in any of the ports subject to the presidency of Fort Willi-

Section 2. Saltpetre not to be exported on any other than vessels belonging to British subjects.

Section 3. The importation of it from the interior into any foreign settlements prohibited.

Exception.

Section 4. On breach of the foregoing rules, the saltpetre liable to seizure and confiscation.

Section 5. Duty of the custom officers to enforce the prohibition.

* The preamble to this regulation states the provisions of it to have been deemed expedient "with a view to the promotion of the commercial intercourse between India and Great Britain, and to the general interests of the British nation." It is, of course, subsidiary to particular conventions with foreign nations; such as the 7th Article of the convention between Great Britain and France, signed at London the 7th March 1815, whereby it is agreed that "In the event of any restriction being imposed upon the exportation of saltpetre, the subjects of his most Christian Majesty shall nevertheless be allowed to export that article to the extent of 18,000 maunds."

am,

am, or of being taken within the limits of the said foreign settlements, in opposition to the provisions of this regulation. It shall be the duty of the officers of the police, on due application being made to them for that purpose, to give every requisite aid and support to the officers in the department of customs, in carrying this provision into effect." §. 6. "Saltpetre detained under the rule contained in the above section shall, within twenty-four hours of its seizure, be delivered to the nearest collector of Government customs." §. 7. "The rules contained in Section 33, Regulation 9, 1810, shall be applicable to all saltpetre detained on the ground of its being liable to confiscation under the provisions of this regulation; any thing contained in the second clause of that section to the contrary notwithstanding; provided, however, that nothing shall be understood as authorizing the Board of Revenue to permit the exportation of saltpetre on foreign bottoms; or the importation of that article into any of the foreign settlements." §. 8. "Individuals residing within the limits of any foreign settlement shall be allowed to take within the same such quantity, not exceeding one maund, as the collector of customs at Hooghly shall be satisfied is necessary for their private consumption, or for retail sale. In all such cases, application shall be made to the said collector of Government customs; who will, at his discretion, grant a pass, specifying the name of the person in whose favor it is granted, and the quantity of saltpetre to be taken; and certifying that the same is for private use or retail sale. No pass so granted shall be in force for more than twelve hours."*

Section 6. Salt petre where to be delivered on seizure.

Section 7. Section 33, Regulation 9, 1810. How far applicable to Saltpetre under seizure.

Proviso.

Section 8. What quantity allowed to be taken by individuals residing within foreign settlements.

* The annexed statement will shew the gross and net amount received on account of *customs*, from the 1st May 1815, to the 30th April 1816.—The gross collections for *town duties*, during the some period, amounted to sicca rupees 4,61,139; and the net collections, to sicca rupees 3,98,106. By the annual revenue accounts of the East India Company, which were printed for the use of Parliament in June 1811, the gross amount of customs and town duties received from the 1st May 1809, to the 30th April 1810, (the year preceding the enaction of Regulations 9, and 10, 1810,) appears to have been sicca rupees 44,09,210; or after deducting 5,70,406 for charges; the net sum of sicca rupees 38,38,804. The duties established by the regulations abovementioned have therefore produced a very considerable increase of revenue, notwithstanding the exemptions and drawbacks directed in the provisions of Regulation 4, 1815.

STATEMENT

STATEMENT of the GROSS and NET COLLECTIONS of GOVERNMENT CUSTOMS in the Year 1815-16.

	Gross Collections.												Deduct, refunds & drawbacks.			Remaining collections.			Deduct.									Net collections.		
	Imports.			Exports.			Transit Duties.			Total.									Charges collections.			Commission.			Total.					
Lower Provinces.																														
Calcutta, ...	12,85,272	14	1	3,51,597	8	9				16,36,870	6	10	5,50,170	12	9	10,86,699	10	1	80,049	8	8	65,572	6	9	1,45,621	15	5	9,41,077	10	8
Patna, ...	3,60,081	14	9	98,974	13	0				4,59,056	11	9	0	0	0	4,59,056	11	9	36,290	5	9	18,001	7	7	54,291	13	4	4,04,764	14	5
Dacca, ...	86,522	13	1	1,50,427	12	0				2,36,950	9	1	12	0	0	2,36,938	9	1	27,810	8	6	8,448	4	8	36,258	13	2	2,00,679	11	11
Chittagong, ...	7,905	6	0	9,136	9	7				17,044	15	7	0	0	0	17,044	15	7	2,455	1	7	338	3	0	2,793	4	7	14,251	11	0
Moorshedabad,	1,39,958	0	4	6,20,275	15	2				7,60,233	15	6	1,043	1	7	7,59,190	13	11	46,599	14	7	31,823	5	0	78,423	3	7	6,80,767	10	4
Houghly, ...	8,931	4	10	4,14,241	5	10				4,23,172	10	8	108	0	0	4,23,064	10	8	34,152	5	8	12,640	11	1	46,793	0	9	3,76,271	9	11
Cuttack, ...	15,863	2	5	13,355	13	3				29,218	5	8	0	0	0	29,218	15	8	6,981	3	3	1,210	12	0	8,191	15	3	21,027	0	5
Total Sa. Rs. ..	9,04,538	7	6	16,58,009	13	7				25,62,548	5	1	5,51,333	14	4	20,11,214	0	9	2,34,339	0	0	1,38,035	2	1	3,72,374	2	1	16,38,840	4	8
Western Provinces.																														
Cawnpore, ...	1,43,127	13	11	2,92,997	10	11				4,36,125	8	10	100	15	3	4,36,024	9	7	39,689	11	9	25,546	10	3	65,236	6	0	3,70,788	3	7
Furruckabad, ..	8,037	11	2	2,14,021	10	0				2,22,059	5	2	27	5	0	2,22,031	15	4	23,142	7	0	10,820	7	7	38,962	14	7	1,83,069	0	9
Allahabad, ...	51,075	8	7	2,53,869	15	10				3,04,945	8	5	5	15	2	3,04,939	9	3	22,695	15	0	15,607	6	2	38,303	5	2	2,66,636	4	1
Barelly, ...	26,536	3	7	1,79,402	3	5				2,05,938	7	0	0	0	0	2,05,938	7	0	19,167	7	3	10,213	1	11	29,380	9	2	1,76,557	13	0
Agra, ...	6,47,324	13	6	17,825	3	11	1,86,139	13	4	8,51,289	14	9	16	12	0	8,51,273	2	9	43,775	9	9	42,974	10	9	86,750	4	6	7,64,522	14	3
Meerut, ...	2,08,807	13	9	40,739	9	4	33,218	6	4	2,82,845	13	5	56	7	4	2,82,789	6	1	26,695	6	2	14,810	13	5	41,506	3	7	2,41,283	2	6
Mirzapore, ...	1,65,734	6	1	25,193	5	0				1,90,927	11	1	0	0	0	1,90,927	11	1	27,720	2	6	9,629	5	5	37,350	1	11	1,53,577	9	2
Benares, ...	71,920	13	7	65,480	15	1				1,37,401	12	8	0	0	0	1,37,401	12	8	29,35	9	7	7,827	7	3	37,179	0	10	1,00,222	11	10
Gazeepore, ...	2,09,333	9	7	22,431	3	11				2,31,764	13	6	0	0	0	2,31,764	3	6	23,294	4	2	12,079	11	2	35,373	15	4	1,96,390	14	2
Total Sa. Rs. ..	15,31,978	13	9	11,11,961	13	5	2,19,358	3	8	28,63,298	14	10	207	7	7	28,63,091	7	3	2,60,533	3	2	1,49,509	9	11	4,10,042	13	1	24,53,048	0	2
Total of Lower and Western Provinces. ..	34,36,517	5	3	27,69,971	11	0	2,19,358	3	8	64,25,847	3	11	5,51,541	5	11	58,74,305	14	0	4,94,872	3	2	2,87,544	12	0	7,82,416	15	2	50,91,888	4	10

SECTION VIII.

TOLL ON CANALS; AND FERRIES.

Reason for establishing a toll on boats passing through certain canals; and rates of toll defined by Regulation 18, 1806.

A CANAL which connects the river Hooghly with the Sunderbunds, and was formerly called *Tolley's Nullah*, but has now the designation of the *Eastern Canal*, was made, or deepened, at the expense of the Company; who also continue to keep it in a navigable state; as well as to maintain ferry boats, at convenient stations, for crossing it. To defray the consequent charge, a toll was imposed; and the rates have been defined and published for general information in Regulation 18, 1806; which also sanctions a toll established, for similar reasons, on boats passing through certain *khaals*, creeks or canals, in the salt districts of Tumlook and Higelee. The following are the provisions of this regulation. §. 2. *First.* "A toll shall be levied on all boats passing through the Eastern canal, at the following rates:

Regulation 18, 1806, Section 2. A toll to be levied on boats passing through the Eastern canal in the district of the 24 Pergunnahs.

Rates.

Budgerows,.....	4 annas per oar.
Pinnaces,.....	
Bauleahs,.....	
Paunsways,.....	
Empty boats, boats laden with bricks, earthen ware, sand, earth, soorkey,	4 annas per 100 maunds burthen.
Small boats, passing and repassing through a part only of the nullah, laden with articles of small value,.....	4 annas per boat, for passing and repassing.
Baggage boats, and boats laden with rice, paddy, kessary, moong, killai, muttore, boot, mussary, wheat, barley, orhur, chura, burbutty, congney, Dacca pumkins, straw, firewood, guran sticks, ginger, tamarind, onions, garlic,...	1 rupee per 100 maunds burthen.

Rate to be paid by all boats laden with other articles than those above specified.

Second. "All boats passing through the nullah, laden with any other articles than those mentioned in the above list, shall be subject to the duty of two rupees per one hundred maunds burthen."

Section 3. The collection of the tolls to be entrusted to the collector of the 24 Pergunnahs.

§. 3. "The collection of the tolls, upon boats passing through the Eastern canal, shall be entrusted to the collector of the 24 Pergunnahs; aided by such native officers as may be required in the discharge of that duty."

Section 4. Ferries to be established at certain places.

§. 4. "Ferries shall be established for the convenience of the public, at the following places, viz. Callyghaut, Baunsdoony, Ghurrya, Teetalbarrya; and, during the season of the rains, at Khuribanya."

Section 5. Rates of toll to be levied at the ferries.

§. 5. "Tolls shall be collected from all persons availing themselves of the use of the ferries, at the following rates:

A foot passenger, five gundas of cowries.

A foot passenger, with a load, one pun of cowries.

A bullock load, two puns ditto.

A palanqueen, with bearers, four annas.

Hackeries and carriages, loaded and empty, eight annas.

Sheep, goats, &c. one pun of cowries each.

Section 6. Persons at liberty to use the ferries or not.

§. 6. "At the same time, it is to be understood, that persons are entirely at liberty to use the ferries, or to cross the nullah in any other manner which may be practicable, and which they may prefer; and that, in the latter case, they are not to be subject to any demands whatever on account of the toll specified in the preceding section."

Section 7. Rules for preventing interruption in the passage of boats, and preserving the canal in a navigable condition.

On what sides of the canal, boats, &c. shall navigate in going to, or coming from, the Sunderbunds.

§. 7. *First.* "The following rules have been established for the purpose of promoting the convenience of the community, and of preserving the canal in a good navigable condition."

Second. "Boats and other vessels, proceeding to the Sunderbunds, shall pass on the right hand, or South-west side of the canal; and boats and other vessels, coming from the Sunderbunds, to the Hooghly river, shall pass on the North-east side of the canal."

Anchors or bamboos to be used for fixing boats in the bed of the canal, and no bamboos, or stakes to be driven into the banks.

Third. "Mangies, and other persons in charge of boats, shall use anchors or bamboos for the purpose of fixing their boats in the bed of the canal; and they shall not be permitted to drive bamboos or stakes of any kind, into the banks of the

the canal; which term shall be understood to comprehend a distance of not less than nine feet from the top of the slope." *Fourth.* "Individuals shall not be permitted to excavate earth, for the purpose of making bricks, within one hundred feet of the banks of the canal." *Fifth.* "All persons are prohibited from throwing ballast, wood, or other large and solid substances, into the canal." §. 8. "Any person infringing any of the foregoing rules, shall be liable to be sent either by the officers of police, or by the officers entrusted with the charge of the collections, to the magistrate officiating in the 24 Pergunnahs, and to be punished to the extent to which the magistrates are authorized to inflict punishment for the commission of petty offences, under the general regulations." §. 9. "In the event of any vessel or boat, sinking in the canal, immediate notice shall be given by the crew, or person in charge, at the thanna of the nearest police darogah; who, on receiving such information, shall proceed without delay to the spot, and adopt measures under the directions of the magistrate, for the immediate removal of the wreck." §. 10. "It shall be the duty of the magistrate to prevent any encroachments on the canal, by the erection of ghauts or other buildings tending to impede the navigation of the canal. The officers of police and the officers employed in making the collections, shall accordingly report to the magistrate, whenever any encroachment or nuisances of that nature may be attempted to be made." §. 11. "A toll shall be collected on all boats passing through the canal, commonly called the Banka nullah, Gowah khaal, and Narainpore khaal, in the division of Tumlook; and through the Koonjopore khaal, in the division of Hijelee, at the following rates:

Individuals not to excavate earth within 100 feet of the banks of the canal.

All persons prohibited from throwing ballast or other solid substances into the canal.

Section 8. Persons infringing any of the above rules, how to be dealt with.

Section 9. Measures to be adopted in the event of vessels or boats sinking in the nullah.

Section 10. The magistrate to prevent any encroachments on the canal.

Section 11. A toll to be levied on boats passing through the Banka nullah, Gowah khaal, and Narainpore khaal, in the Tumlook salt division; and the Khoonjapore khaal in Hijelee.

Rates.

On all bugderows, pinnaces, bauleahs, or paunsways, whether with passengers or empty.	4 annas per oar.
On salt per 100 maunds as per chellaun, ...	1 rupee 1 anna.

On

On boats of burthen empty, 4 annas per 100 maunds burthen of the boat, ... On baggage boats, and boats laden with rice, paddy, and grain of all kinds, or earthen ware,	8 annas per 100 maunds burthen of the boat.
On boats laden with any other articles, than those before specified, ...	1 rupee per 100 maunds burthen of the boat.
On saul, sissoo, and all other timbers, in rafts,	2 annas per timber.
On bamboos, in floats, ...	4 annas per 100 bamboos.
On small boats, proceeding with articles for sale or barter, at the hauts, bazars, or gunges, near the banks of the nullah, not passing through it.	2 annas on each boat going and returning.

Section 12. To whom the duty of collecting the tolls shall be entrusted.

§. 12. "The duty of collecting the tolls on boats passing through the Banka nullah, Gowah khaal, and Narrainpore khaal, shall be entrusted to the person holding the appointment of salt agent for the division of Tumlook; and the duty of collecting the tolls on boats passing through the Koonjopore khaal, to the person holding the appointment of salt agent for the division of Hijelee, aided by such native officers as may be required in the discharge of that duty." §. 13. "The Board of Revenue is hereby vested with a general control over the collector of the 24 Pergunnahs, and over the salt agents at Tumlook and Hijelee, in the discharge of the duty entrusted to those officers respectively, by the provisions of the present regulation."

Section 13. Board of Revenue vested with a general control over the officers entrusted with the collection of the tolls, under the provisions of the present regulation.

With

Another canal made to the saltwater lake, near Calcutta.

And toll established for boats passing through it by Regulation 7, 1810.

WITH the view of affording facilities to the internal commerce of the country in the vicinity of Calcutta, the Government caused another canal to be dug from the Bytukhana road to Baliaghaut on the salt water lake; (whence it is usually called the Baliaghaut canal;) and considering it just that a moderate toll should be established on boats passing through the canal, to defray the expense of excavation, and provide for the future repairs; the following rules, for this purpose, were enacted in Regulation 7, 1810. §. 2. "The collector of the 24 Pergunnahs, assisted by native officers to be appointed by him, shall be entrusted with the collection of the tolls which are to be levied from all boats entering the canal, agreeably to the following rates:

Section 2. Collector of the 24 Pergunnahs entrusted with the collection of the tolls on boats entering the canal.

Rates of tolls.

Budgerows, ...	2 annas per oar.
Pinnaces, ...	
Bauleahs, ...	
Paunsways, ...	
Boats laden with bricks, earthen ware, sand, earth, or soorkey, ...	2 annas per 100 maunds.
Baggage boats, and boats laden with straw, firewood, or gram-sticks,	8 annas per 100 maunds.
Boats laden with grain, or vegetables of any kind,	12 annas per 100 maunds.

§. 3. "All boats, laden with any article not specified in the above list, shall be subject to a toll of one rupee per 100 maunds burthen, whether the articles laden on them be imported, or be exported, on returning boats, or on boats entering the canal for the purpose." §. 4. "The Board of Revenue are hereby invested with a general control over the Collector of the 24 Pergunnahs, in the discharge of the duties entrusted to him by this regulation." §. 5. "Boats on entering the canal, shall proceed towards Calcutta on the South-side, and shall return by the North-side of the canal." §. 6. "The rules prescribed by Clauses Third, Fourth, and Fifth,

Section 3. Boats laden with articles not specified in the list contained in the preceding section, to be subject to a toll of 1 rupee per 100 maunds burthen.

Section 4. Board of Revenue invested with a general control.

Section 5. Boats on entering the canal to proceed on the South-side, and to return on the North-side of the canal.

Section 6. Rules prescribed.

ed by part of Reg. 18, 1816, to be considered applicable to the canal in question.

of Section 7, Regulation 18, 1806; and also by Sections 8, 9, and 10, of the same regulation, shall be considered applicable to the canal in question.

Provisions in Regulation 4, 1813, for a toll on boats passing through the Issamutty, Matabangah, and Choornee rivers in the district of Nuddea.

Regulation 4, 1813, contains the following additionl provisions *for establishing a toll on boats passing through the Issamutty, Matabangah and Choornee rivers*, in the district of Nuddea, in consequence of measures having been adopted for improving the navigation of these rivers, with a view to facilitate the communication between the Hooghly river and the Ganges in the dry season.*

Section 2. Collector of Nuddea entrusted with the collection of the tolls on boats entering the canal.

§. 2. The collector of Nuddea, assisted by native officers to be appointed by him, shall be entrusted with the collection of the tolls which are to be levied from all boats entering the canal, agreeably to the following rates:

Rates of tolls.

Budgerows, ...	Two annas per oar.
Pinnaces, ...	
Bauleahs, ...	
Paunsway, ...	
Boats laden with bricks, earthen ware, sand, earth, or soorkey.	Two annas per 100 maunds.
Baggage boats, and boats laden with straw, firewood, or gram sticks	Eight annas per 100 maunds.
Boats laden with grain or vegetables of any kind.	Twelve annas per 100 maunds.

* The *Matabangah* channel, as it is usually denominated, communicates with the Hooghly river at Seebpoor, and with the Ganges a little above Hureesunker. A darogah, with an establishment of native officers, for collecting the toll, is stationed at the head of the Issamutty river, near the police thanah of Dewangunge; being the Northerly entrance to the channel; and another at Seebpoor, being the Southerly entrance, near the village of Chogdah; where the Choornee disembogues into the Hooghly river. A third chokee has also been established at Kishengunge, an intermediate station; to secure the toll on boats entering the channel by a communication from the Eastward. It may be proper to add that, on the 27th July 1813, the collector of Nuddea was instructed by the Board of Revenue "to allow boats laden with the Company's investment, or property, to pass free;" and that rafts of timbers and bamboos not being specified in Regulation 4, 1813, the Board did not think it proper to authorize the imposition of a toll on them, under that regulation.

§. 3. "All

§. 3. "All boats laden with any article not specified in the above list, shall be subject to a toll of one rupee per 100 maunds burthen, whether the articles laden on them be imported, or be exported on returning boats, or on boats entering the canal for the purpose." §. 4. "The Board of Revenue are hereby invested with a general control over the collector of Nuddea, in the discharge of the duties entrusted to him by this regulation." §. 5. "The collector of Nuddea shall be entitled to a commission on the revenue derived from the tolls above established, at such rates as the Governor General in Council may direct." *

Section 3. Boats laden with articles, not specified in the list, subject to a toll of one rupee per 100 maunds burthen.

Section 4. Board of Revenue invested with a general control.

Section 5. The collector of Nuddea entitled to a commission.

The following general rules, *for the better management of ferries, and for levying a toll on the passage of persons and property over rivers and lakes*, have been recently enacted, in Regulation 19, 1816, to be in force from the commencement of the Fussily, Willaity, and Bengal year, 1224.

General provisions for the management of ferries, recently enacted in Regulation 19, 1816.

Whereas it appears expedient, that the ferries should be placed under certain regulations, for the better maintenance of the peace of the country, for the safety and convenience of travellers, for the secure transportation of property, and for the eventual improvement of the public resources, the Governor General in Council has been pleased to resolve, that the management of the ferries shall be entrusted to the officers of Government, and that tolls shall be levied on the passage of persons and property, at such ferries. The following rules have accordingly been enacted, to be

Preamble.

* The following is a statement of the gross and net collections, on account of the several tolls specified, in the year 1815-16; viz. from the 1st May 1815, to the 30th April 1816.

CANALS.	Gross Collections in Sicca Rupees.	Charges and Commission.	Net Collections.
Tolly's Nullah, or Eastern Canal, in the 24 Pergunnahs,	63,422 4 8	7,138 5 12	56,283 11 16
Baliaghaut Canal, in ditto,	13,071 0 0	2,129 4 0	10,941 12 0
Tumlook Canals,	8,068 12 9	2,217 9 3	5,851 3 6
Hijelee, ditto,	1,645 9 0	2,227 8 16	*
Matabangah and other rivers, in the district of Nuddea.	38,679 0 3	3,859 6 15	34,819 9 8

* An expense of Rupees 1,957 8 16, incurred in excavating and clearing the *Koonjapore Khaul*, has occasioned a disbursement, beyond the receipts, in 1815-16, to the amount of Rupees 581 15 16.

in force throughout the provinces immediately depending on the Presidency of Fort William, from the commencement of the ensuing Fussily, Willaity, and Bengal years, respectively."

Collectors of the land revenue to regulate the assessment and management of the ferries, under the control of the respective revenue authorities.

§. 2. "The collectors of land revenue shall, under the control of the Board of Revenue, Board of Commissioners, and Commissioner in Behar and Benares, regulate the assessment of the ferries, the rates of toll to be levied from passengers, the number of ferries in each district, and the number and size of the boats to be maintained at each ferry; and shall let the ferries in farm, either separately or collectively, for any period not exceeding one year; or hold them under khas management; or exempt any of them from the payment of revenue to Government; as circumstances may render expedient."

Ferries may be annually farmed, either separately or collectively. Or held khas, or exempted from the payment of revenue.

Collectors how to proceed in cases where ferries are to be let in farm.

§. 3. "In those cases in which it may be deemed advisable to let the ferries in farm, instead of holding them khas, agreeably to the option reserved to the revenue authorities by the preceding section, advertisements shall be issued, specifying the rates of toll to be levied, and the number and description of boats to be maintained at each ferry, and inviting proposals for farming such ferries."

What the advertisements are to specify.

§. 4. "In places where the ghauts on each side of a river may be situated in the districts of different collectors of the land revenue, the ferries and boats at such ghauts shall, at the discretion of the superintending Board or Commissioner, be placed under the control of one or both collectors as may appear proper."

Discretion vested in the revenue authorities with regard to ferries on each side of the same river, but in districts of different collectors.

§. 5. "All farmers shall be required to execute engagements stipulating to pay the rent of the ferries into the collector's treasury, by monthly or other periodical instalments."

Farmers of ferries to execute engagements.

§. 6. "Sums of money due from the farmers of ferries, or from the agents of Government, where the ferries may be held under khas management, shall be realized under the rules prescribed for the recovery of arrears of land revenue, as far as the same may appear applicable."

The rules in force for the recovery of arrears of revenue, declared applicable to the recovery of balances due from farmers of ferries and others.

§. 7. "The collectors of land revenue shall be entitled to a commission on the net revenue realized by Government, under the provisions of this regulation, at such rate as the Governor General in Council may direct."

The collectors to receive a commission on the net amount of the revenue realized by Government.

§. 8. "It shall be competent to the Board of Commissioners, to the Board of Revenue

The revenue authorities empowered to reduce or increase the number of

venue, and to the Commissioner in Behar and Benares, to reduce or enlarge, either of their own accord, or at the suggestion of the magistrates, the number of ferries of every description, and to reduce or enlarge the number of boats at any ferry, whenever it may appear to them expedient, due reference being had to the rights of the farmers" §. 9. "In the event of its appearing that the profits derived from any resumed ferry may have been included in the permanent assessment of the estate to which it has heretofore been annexed, the Board or Commissioner, under whose orders the enquiry may be conducted, shall report the circumstance, with an opinion on the merits of the claim for the consideration and orders of the Governor General in Council, and the courts of judicature shall not take cognizance of any claims to deductions or compensations on account of the tolls levied at any ferry or ghaut." §. 10. *First.* "The collectors of the land revenue shall grant licenses according to the form No. 1. of the appendix, to all persons engaging to farm the ferries under the provisions of this regulation, as well as to all other persons managing ferries where the boats employed may be used for hire, although such ferries may not be assessed for the public revenue, and shall cause such persons to execute engagements according to the form No. 2. of the appendix, to abide by and perform the conditions of their licenses." *Second.* "Perwanehs containing conditions similar to those included in the form of license No. 1. shall be issued by the collectors to the native officers of Government, to whom the charge of the ferries may be confided, during the time that they may be under khas management, and such officers shall be declared liable, on breach of the conditions prescribed, to dismission from office, and to such further punishment under the regulations, as the circumstances of the case may appear to require." §. 11. "Licenses granted under this regulation shall be issued in numerical order, and a register shall be kept in the office of the collector, according to the form No. 3. of the appendix." §. 12. "All licenses granted by the collector shall be delivered up at the expiration of the year, and persons neglecting to conform to this rule within one month after the close of the year, shall

ferries or the number of boats at any ferry.

The revenue authorities to report to Government, cases in which the profits of a resumed ferry may have been included in the permanent assessment of an estate.

The civil courts prohibited from taking cognizance of claims to deductions on account of tolls levied at ferries of ghauts.

Collectors to grant licenses to farmers of ferries.

And to the managers of ferries where boats are used for hire, although such ferries may not be publicly assessed.

Such managers to execute engagements to perform the conditions of their licenses.

Collectors to issue perwanehs to native officers in charge of ferries under khas management.

Such officers declared liable to punishment on a breach of the prescribed conditions.

Licenses to be issued in numerical order, and a register of them kept in the collector's office.

Licenses to be delivered up at the expiration of the year.

shall be summoned to the collector's office, in order that their licenses may be renewed." §. 13. "For the better maintenance of the public peace and the safety and convenience of travellers and the support of trade, the magistrates and their police officers shall exercise control over the conduct of the manjees presiding at ghauts, and the manjees of boats at ferries, and the magistrates shall be competent to punish any manjee of a ghaut or ferry boat, who may violate the conditions of his engagements as hereinafter prescribed, by imprisonment, according to the circumstances of the case, for any period not exceeding six months, and by fine for any sum not exceeding two hundred rupees, commutable in default of payment to a further period of imprisonment, not exceeding six months; the magistrate shall further be competent to direct the removal from the office of boat or ghaut manjee of any person in those situations who may be guilty of a breach of their engagements, and if such manjee should also be the licensed manager of the ferry, the magistrate shall be competent to direct the forfeiture of the license, at the same time communicating the order for the information of the collector of the district." §. 14. *First.* "On the commencement of each Bengal and Fussilly year, the collectors shall transmit to the magistrates a statement of the licensed ferries, drawn out according to the form No. 4. of the appendix, and shall likewise, when occasion may require, inform the magistrate of any intermediate mutations or resumptions of the licenses." *Second.* "Extracts from the foregoing statement, containing the particulars relating to each ferry, shall be forwarded from the magistrate's office to the several police daroghas, within the limits of whose jurisdiction the ferries may respectively be situated, and the daroghas on the receipt of such extracts shall summon before them the manjees of the ghauts and ferry boats, and shall take from them (as far as the same may be applicable to the description of manjee,) engagements agreeably to the form No. 5. of the appendix, which engagements shall be transmitted to the magistrate's court." §. 15. "Any unauthorized person employing a boat for the purpose of ferrying passengers, cattle, or other property for hire, shall be liable on conviction

Magistrates vested with a controlling power over manjees of ferry boats.

And competent to punish manjees, who may violate their engagements by fine and imprisonment.

Limitation as to the period of imprisonment, and amount of the fine to be levied.

Magistrates may also direct the removal of manjees or may withdraw their licences, informing the collector of the orders issued on such occasions.

Collectors to furnish the magistrates with statements of licensed ferries, and to inform them of occasional mutations or resumptions of licenses.

Extracts from such statements to be sent from the magistrate's office to police daroghas, within whose jurisdiction ferries may be situated.

How the daroghas are to proceed upon the receipt of such extracts.

Unauthorized persons employing ferry boats for hire, how to be dealt with.

conviction before a magistrate to a fine not exceeding rupees one hundred, or, in default of payment, to confinement with labor for a period not exceeding three months, and the boat or boats used by such person, shall be liable to be confiscated to Government."

§. 16. "The daroghas of police shall pay due attention to the state of the ferry boats within their respective jurisdictions, and shall require the person whose duty it may be, to provide safe and convenient boats, to repair them when necessary, and to construct new boats when those in use may be found unfit for service."

Rules to be observed by daroghas for enforcing the provision of safe and convenient ferry boats within their respective jurisdictions.

§. 17. "At the close of each year, the daroghas of police shall furnish a specific report to the magistrate of the state of the boats employed at each ferry in their respective divisions, and such boats as may appear unfit for service, shall be wtihdrawn; and other proper boats substituted; and whenever any manjee of a ferry or ghaut may decline to conform to requisitions made under the rules contained in this section, the darogha shall immediately report the circumstance for the orders of the magistrate, or for such communication to the collector as may appear proper."

Daroghas to report periodically to the magistrates on the state of the ferry boats.

Unserviceable boats to be withdrawn and others substituted.

And ferry or ghaut manjees declining to conform to the rule prescribed to be reported to the magistrates.

§. 18. "If any person shall be drowned in crossing a ferry, by the oversetting or sinking of a boat, and it shall be established on enquiry before a magistrate that the boat was overloaded with passengers, or property, or was insufficiently manned, or was out of repair at the time of the accident, the manjee of the ghaut or boat, if duly convicted of permitting his boat to be overloaded, or to be insufficiently manned or out of repair, shall be liable to such fine and such period of imprisonment, as the magistrate may think proper to impose, under the provisions of Section 13, of this regulation; and the license of the farmer or manager of the ferry shall be liable to be forfeited, unless he can prove to the satisfaction of the magistrate, that the accident was not imputable to any want of proper care and attention on his part."

Penalties in case where persons may be drowned in crossing a ferry by the oversetting or sinking of an overloaded, insufficiently manned or unserviceable boat.

§. 19. "The forfeiture of a license by order of the magistrate under any of the foregoing provisions, shall involve the annulment of a farmer's lease for the particular ferry therein mentioned, and all orders passed by the magistrates in regard to the forfeiture of licenses, whether for ferries assessed by Government or otherwise, shall without delay

The forfeiture of a license by the magistrate's order declared, sufficient to involve the annulment of the lease.

All orders passed by the magistrates regarding the forfeiture of licenses

To be communicated to the collector. Magistrates and collectors required to ascertain the state of the ferry boats within their respective districts. And to adopt measures for giving full effect to the intention of this regulation.

delay be communicated for the information and guidance of the collector of the district." §. 20. "The magistrates and the collectors of the land revenue are required to ascertain from time to time, through their local officers or otherwise, the actual state of the ferry boats within their respective districts, especially those used for crossing broad and deep rivers or lakes, and to adopt such measures as may be necessary for carrying into full effect the intention of this regulation, as it respects the safety and convenience of passengers, and the secure conveyance of property at the public ferries."

APPENDIX.

FORM No. 1.

License to Farmers and other Managers of Ferries and Ghauts.

Whereas A. B. inhabitant of (city town, or village) has obtained a license for the establishment of a ferry boat (or ferry boats) at ——— on the river ——— it is required of A. B as a condition of this license remaining in force, that he strictly conform to the following rules.

1st. That the boat (or boats) used at the ferry shall be strong and kept in good repair, and that the number of boatmen and the burthen of each boat shall be equal to that specified in the subjoined statement. 2d. That he will cross free of toll the troops of Government, with their baggage, and all military stores, as well as all police and other officers of Government, who may be actually employed on the public service. 3d. That he will attend implicitly to all orders which he may receive from the magistrate, in regard to crossing the troops, to plying the ferry during the night time, as well as in respect to other matters relating to the police. 4th. That he shall cause a Board, exhibiting the authorized rates of fare as contained in the subjoined statement, to be constantly fixed up in a conspicuous place close to the ghaut, and that he

will

will not knowingly allow the manjees or boatmen to demand or receive more than such rates. 5th. That on breach of any of the foregoing conditions, or on proof of any other misconduct relating to the management of the ferry, the license shall be liable to be resumed.

STATEMENT.

Description and burthen of each boat.	Number of Manjees and Dandees to be employed in each boat.	Number of Passengers which each boat is capable of conveying at one time.	Established Ferry rates for crossing Men, Cattle, burthen, &c.

FORM, No. 2.

Whereas I, A. B. have received from the collector of ——— a license to maintain a ferry boat (or boats) at the ghaut of ——— on the river ———, within the jurisdiction of the thannah of ——— until the ——— I do hereby engage to abide by, and perform the several conditions specified in the said license (reciting them): in failure whereof the said license shall be held forfeited.

FORM, No. 3.

Register of Licenses granted to Farmers and others, for the management of Ferries in the district of for the year

Number of the License.	Date of the License.	To whom granted.	Name of the Ferry or Ghaut.	In what Thannah situated.	Forfeitures, mutations and casualties within the year; and date of the return of the expired licenses.

FORM, No. 4.

STATEMENT of Licensed Ferries, established in the district of

Name of the Ferry or Ghaut, and situated near to what City, Town or Village.	On what River.	Within the Jurisdiction of what Thannah.	Road from whence and leading to what place.	Name of the licensed Manager or managing agent on the part of Government; and if farmed the period of the lease.	Established Ferry Rates for crossing Men, Cattle, Carriages, &c. &c. &c.	Description & burthen and number of Boats employed.	Number of Passengers which the Boat is capable of crossing at all seasons.	Name of the Manjees and number of Dandees.	Annual Jumma assessed; or if Khas, computed average of annual receipts.	Navigable all the year or how many months.	Name of the landholder in whose estate the Ferry is situated.
					Rs. As. Ps.						
Kudul Kuttee near to Rampore Bauleah.	Ganges.	Bauleah.	From Nattore to Moorshedabad.	Rajkishore Farmer, lease for one year.	A Man, . 0 1 6 Ditto, with burthen, 0 3 0 Ditto, with bangy, 0 6 0 Horse and Horsemen, . 0 6 0 Camel, . 0 10 0 Cart, . 0 10 0 Elephant, 6 0 0	3 Boats of 500 Muns each.	80 Men in each Boat.	Shaikh Bolo, Ali Buksh and Jan Mahomed, with 3 Dandies each.	2600 Rs. per Annum.	All the year.	Deanut Khan.

FORM, No. 5.

Penal Engagements to be taken from Manjees.

Whereas I A. B. have been appointed to the office of (ghaut or ferry) manjee of ——— on the river ——— within the jurisdiction of the thannah of ——— I do hereby engage to abide by and perform the several conditions hereinafter mentioned.

1st. I will regularly employ, for the purpose of plying the ferry, the number of boatmen specified in the subjoined statement.—2d. I will not collect more than the established rates of fare as recited in the subjoined statement, from any person crossing at the ferry.—3d. I will not collect any toll after the passengers enter the boat.—4th. I will regulate the number of passengers, crossing at the ferry at the same time, strictly by the size of my boat, and according to the subjoined statement.—5th. I will give immediate intimation to the nearest police officer, on the occasion of any assemblage of persons of suspicious appearance passing the ferry.—6th. I will implicitly abide by all orders which I may receive from the magistrate, in regard to crossing the troops of Government; and with respect to plying the ferry during the night time; as well as in relation to other matters connected with the police.—7th. In default of any of the foregoing conditions, I shall be liable to such punishment, by fine and imprisonment, as the magistrate under the regulations may judge proper to impose upon me.

STATEMENT.

Description and burthen of each Boat.	Number of Dandies to be employed in each Boat.	Number of Passengers which each Boat is capable of conveying at one time.	Established Ferry Rates for crossing Men, Cattle, Burthen, &c.

SECTION

LIBRARY.

SECTION IX.

DUTY ON STONE QUARRIES.

Stone quarries in the province of Benares formerly worked for Government.

THE stone quarries at Chunar, Ghazeepore, and Mirzapore, in the province of Benares, were formerly worked for the exclusive use of Government; and were either let in farm, (under the provisions of Sections 81 and 82, Regulation 22, 1795;) or managed, (since August 1797,) by an agent, who disposed of the stones, at stated prices, chiefly in the city of Benares. With a view to encourage the excavation of the quarries, and bring a greater quantity of stones to sale, for general convenience, it was determined by Government, in the year 1799, to lay open the whole of the stone quarries in the province of Benares, for public use, subject to a duty; the rates of which, and rules for collecting it, were accordingly enacted by Regulation 2, 1800, to the following effect.

Laid open in the year 1799, for public use, subject to a duty.

Rules for collecting this duty, in Regulation 2, 1800.

Section 2. All persons, except British born subjects, permitted to quarry stones.

§. 2. "All native inhabitants of the Company's provinces, and all other persons not being British-born subjects, as well as such British-born subjects as have been or may hereafter be permitted to reside in the province of Benares, for the purpose of carrying on any trade or manufacture, under the restrictions contained in Regulation 28, 1793, are hereby declared at full liberty to excavate stones of every description from the quarries at Chunar, Ghazeepore, and Mirzapore, subject to the provisions contained in the following sections of this regulation."

Section 3. A fixed duty to be paid to Government previously to removal of the stones.

§. 3. "On all stones excavated from the quarries specified in the preceding section, a fixed duty shall be paid to Government, previously to the removal of the stones from the vicinity of the quarry where they may have been cut, according to the undermentioned rates, viz:" *First.* On the undermentioned eight descriptions of stones, at whatever quarry excavated, the duty to be as follows:

Descriptions of Stones.	*Rates of Duty.* Rs.	As.	
Dhoka, or small stones of various dimensions, usually sold by the 100 maunds,	2	4	per 100 maunds.
Kolhoo, or sugar-cane mill stones, 1st sort, called *Burheea*, ...	8	0	per stone.

Descriptions of Stones.	*Rates of Duty.* Rs.	As.	
2d sort, called *Surkee*, ...	7	0	per stone.
3d ditto, ditto *Kolhoobindra chul*, ...	5	0	ditto.
Janta, a species of hand-mill stone, ...	12	8	per 100 pieces.
Chukkee, ditto ditto, ...	6	4	ditto.
Sil, ditto ditto, ...	4	14	ditto.
Ditto, 2d sort, less than a foot in breadth	3	4	ditto.

Secondly. On all other descriptions of stones, the duty to be regulated by their solid contents in length, breadth, and thickness, as follows:

	Rs.	*As.*	*Ps.*	
Stones quarried at Chunar and Ghazeepore, and not exceeding in their solid contents four cubic feet, ...	0	2	8	per cubic feet.
Ditto ditto, above four and not exceeding five cubic feet, ...	0	4	0	per ditto.
Ditto ditto, exceeding five ditto, ...	0	5	0	ditto.
Stones quarried at Mirzapore, of whatever dimensions, ...	0	2	6	ditto.

§. 4. "For the more full and ready information of stone-cutters and others, the collector of Benares is directed to prepare, in the Persian and Hindoostanee languages, a detailed statement of the several descriptions of stones usually quarried at Chunar, Ghazeepore, and Mirzapore; shewing the amount of the duty upon each, calculated according to the rates prescribed in the preceding section; and to keep the same constantly affixed in his cutcherry, as well as in some conspicuous place at each of the quarries, under the inspection of the darogahs to be stationed at them respectively." §. 5. "The duty specified in Section 3, is to be paid into the treasury of the collector of Benares; who, on receipt thereof, (or in the event of the collector's absence, his head assistant on the spot) is to grant a rowannah, under his

Section 4. Statements of the descriptions of stones and the duty on each to be affixed in the collector's cutcherry in the native languages.

Section 5. Duty to be paid into the collector's treasury, and a rowannah to be granted by him.

official seal and signature, directed to the darogah of the station where the stones may have been quarried, specifying the exact quantity and descriptions of stones, for which the duty may have been paid, and authorizing their removal from the quarry in consequence. This rowannah is to be delivered by the party receiving the same to the darogah to whom it is addressed; and to be kept by the latter as his authority for allowing the removal of the stones therein specified." §. 6. "To enable the collector to grant rowannahs as above directed, the party applying for the same shall, with his application, and at the time of paying the duty, deliver an exact list of the stones which have been quarried, and for which the rowannah is desired; specifying the name of the quarry, the number and descriptions of the stones, and their weight, number of pieces, or solid contents, (according as the duty may be payable upon either, in conformity to Section 3;) with any other particulars contained in the detailed statements, to be prepared and published by the collector in pursuance of Section 4; which statements are to be considered, by all persons applying for rowannahs, as the prescribed forms for the lists herein required from them. To facilitate the preparation of such lists, and to prevent inaccuracies which might delay the removal of the stones, and adjustment of the duties thereupon, it is further hereby provided, that when any quantity of stones may have been quarried; and the quarrier, or any person in his behalf, or to whom he may have sold or otherwise transferred the same, shall be desirous of obtaining a rowannah for their removal, the darogah of the quarry, with whom a sufficient number of measurers are to be stationed for this purpose, shall, on application, cause the stones, for which the rowannah may be desired, to be accurately counted, weighed or measured, (accoring as the duty may be payable on the number, weight, or measurement) in the presence of the owner of the stones, or of such person as he may appoint; and the darogah thereupon shall attest the lists of stones to be delivered to the collector, as well as cause the same to be attested by the officer who actually counted, weighed,

Section 6. Exact lists of the stones, in prescribed forms, to be delivered on application for rowannahs.

How such lists are to be prepared.

weighed, or measured the stones, by subscribing thereto a certificate, under his signature, of the accuracy of the number, weight, and measurement therein stated." §. 7. "The darogahs of the stone quarries, on causing any stones to be measured in pursuance of the preceding section, are to affix some mark thereto; and shall also, by some means, mark the heaps of stones which may have been counted, or weighed, so as to identify the whole of the stones included in the lists attested by them; and are to take such precautions as may be necessary to prevent any change of, or addition to, the stores so collected and examined, previous to the receipt of the collector's rowannah for their removal. If in any instance there should appear room for suspicion, that the stores counted, weighed, or measured before the application for the rowannah, have been subsequently changed or added to, the darogah is to cause the same to be re-counted, weighed, or measured in his presence; and in the event of its being ascertained that any fraudulent change or addition, for the purpose of evading the duty, has been made, the whole quantity of stones, for the removal of any part of which such fraud may have been attempted, will be liable to confiscation under the provisions contained in Section 11, of this regulation."

Section 7. Measures to be taken for preventing fraudulent attempts to evade the duty; and

Penalty for such attempts.

§. 8. "On the removal of the stones specified in the rowannah, the darogah is to endorse thereupon the date or dates of romoval; with a certificate under his signature, that the dispatch has been made agreeably to the contents; and the rowannahs so endorsed are to be returned at the end of each month to the collector, with a report of the quantity of stones removed from each quarry within the month. The darogah, with every dispatch of stones, is also to furnish the person, by whom they may be taken from the quarry, with a *chore chittee*, or pass, under his official seal and signature, specifying the number and descriptions of stores taken away, and directing all officers of the quarry and others to allow the same to pass without molestation. No new duty however is to be levied upon such chore chittees, (of which a regular record is to be kept by the darogahs in such form as may be prescribed to them by the collector,) nor are the quarried stones, herein referred to, to be liable,

Section 8. Rowannahs to be returned monthly to the collector with a report of the quantity removed.

The darogah to furnish chore chittees for each dispatch of stones, free of any additional duty.

liable, in any part of the Company's provinces, to any other duty than that specified in Section 3, of this regulation." §. 9. "Any exactions beyond the prescribed duty by the officers stationed at the quarry, or by any other person, as well as all charges of corruption against any public officer, or other person directly or indirectly entrusted with the execution of any part of this regulation, are hereby declared cognizable in the city or zillah dewanny adawlut, within the jurisdiction of which such exaction or corruption may have taken place; and the penalties for extortion and corruption proved against the ministerial officers of the courts of justice and others, as well as the provisions for trying such charges, contained in Regulation 13, 1793, (extended to Benares by Regulation 12, 1795,) are hereby declared applicable to all similar charges which may be preferred and established under the present regulation against the persons herein referred to." §. 10. "The collector of Benares is to nominate, for the approbation of the Board of Revenue,* the daroghas to be stationed at the several stone quarries, and besides an oath, or solemn declaration, for the faithful execution of their respective duties, is to take from them the security prescribed in Section 15, Regulation 3, 1794; the provisions in Sections 15, 16, 17, 18, 19, 20, and 21, of which regulation, are hereby declared to extend to all descriptions of native officers who may be employed under the present regulation; and be entrusted with the receipt of money or the charge of accounts. The collector is to fix the allowances of the darogahs, and the necessary establishment of officers to act under them, subject to the confirmation of the Governor General in Council, to be obtained through the Board of Revenue. He is also to furnish the darogahs with such rules and orders, as, from experience, may appear most effectual to prevent the removal of any stones from the quarries without payment of the prescribed duty." §. 11. "Any stones which may be clandestinely or otherwise removed from the place of

Section 9. Charges of exactions beyond the prescribed duty, or corruption, cognizable in the courts of justice, and the penalties specified in Regulation 13, of 1793, against ministerial officers of the courts, declared applicable to such cases.

Section 10. The collector to nominate, for the approbation of the Board of Revenue, the darogahs; who are to be sworn, and to give the security required in Section 15, Regulation 3, 1794. Sections 15, to 21, of that regulation, declared to extend to all persons employed under the present regulation.

Darogahs' allowances, &c. how to be fixed; and the rules for their guidance to be furnished by the collector.

Section 11. Stones attempted to be remov

* The commissioner appointed to superintend the revenues of Benares and Behar, under Regulation 1, 1816, must by substituted for the Board of Revenue, in this and other parts of the present regulation.

excavation

excavation, or place adjoining thereto, where it may be usual to collect the stones when quarried, without paying the duty and obtaining the rowannah required by this regulation, shall be liable to immediate seizure and confiscation to Government; together with the cattle and carriages which may be used for the conveyance of such stones; and all other property seized therewith, which may in any wise have been used, or intended for use, in the illicit removal of the stones in question. As an encouragement to the officers of Government to do their duty in making such seizures, and to all other persons to give information by which the same may be made, the following rewards shall be paid by the collector from the sale produce of the stones and other property confiscated, as soon as the same shall have been disposed of by public sale, in pursuance of the succeeding section; viz. If the seizure be made by the public officers stationed at the quarries, without information from any other person, a moiety of the sale produce shall be given to them, and be divided amongst them, in such proportions as the collector, on enquiry, may judge due to them respectively; or, if the seizure be made by the public officers upon information from any other person or persons, a quarter of the sale produce shall be given to the seizers, and another quarter to the informers, to be distributed by the collector as above directed. If any other person, or persons, than the officers stationed at the quarry, shall both give the information and make the seizure, he or they shall be entitled to a full moiety of the sale produce without the participation of the officers of Government; who, on the contrary, shall be liable to dismission from office for their neglect, if the collector, on enquiry, shall find them deserving of it; and if there be sufficient evidence of any collusion on their part, they shall be prosecuted criminally for a breach of trust. But to prevent undue molestation to the stone-cutters, or persons who may purchase stones from them at the quarries, it is hereby required, and directed, that no obstruction be offered to the free passage of any stones, on suspicion of their not having paid the established duty, beyond certain limits

ed without paying duty liable to seizure and confiscation, together with the carriages, &c.

Rewards to be paid as an encouragement for making seizures; and in what proportions.

Punishment to the Government officers for neglect of duty.

Rules for preventing undue molestation to the stone-cutters or persons removing purchased stones.

limits round the quarries, to be fixed by the collector, and within which it will be the duty of his officers to keep vigilant watch, for the purpose of detecting and preventing any attempts to remove the stones without a regular pass from the darogah. Moreover, any seizure of stones, without sufficient grounds to warrant suspicion of an attempt to remove the same clandestinely, or to evade the duty, will subject the seizers, (unless reparation be made, as directed in the following section,) to a prosecution in the civil courts for damages; and such courts, on clear proof, that the seizure was altogether unwarranted, and that due reparation has been refused, are required to adjudge full damages to the party injured, besides all costs of suit." §. 12.

Section 12. Seizures to be immediately reported to the collector.

"Whenever any seizure may be made under the preceding section, an immediate report thereof shall be transmitted by the darogah of the quarry to the collector of Benares, with a circumstantial statement of all particulars relative thereto; and the collector shall, as soon as possible, make such further enquiry as may be necessary, in the presence of the parties concerned, if in attendance; or their authorized agents; after which, if it shall appear that the duty had been paid upon the stones seized, or that it was not intended to remove them from the quarry without payment of the prescribed duty, he shall cause them to be immediately released, and direct the party who seized them to make such separation to the owner, as may be adequate to the actual injury sustained by him; under penalty, for non-compliance, of being prosecuted in the dewanny adawlut for damages, and costs, under the preceding section. If, on the contrary, it shall clearly appear to the collector, that no duty has been paid on the stones seized, and that an attempt was made to remove them from the quarry without payment of the duty, he shall declare the same confiscated to Government, together with any cattle, carriages, or other property seized therewith, and liable to confiscation under the preceding section; and shall immediately advertise the same to be publicly sold at his cutcherry on a day to be fixed for this purpose, and to be at least fourteen days after the

Rules for the guidance of the collector on receipt of such reports.

date

date on which he may pass the order of confiscation. All persons, whose property may be so confiscated and advertised, shall be at liberty, at any time within ten days after the date of the collector's order of confiscation, to appeal therefrom by a regular suit in the dewanny adawlut of the city of Benares; and the collector, if duly advised of such suit having been instituted, shall defend the same through the vakeel of Government, and postpone the sale till the determination of it; as well as conform to the judgment which may be passed thereupon; subject to the general rules for appeals. But all such suits shall be brought to a determination with the least possible delay: and if no notice of any suit having been instituted shall be served upon the collector before the appointed time of sale, he shall make the sale as advertised; and no subsequent claim, or plea, against the confiscation of the property sold, shall be received in any court of justice. The judge of the city of Benares will of course take care that timely notice is given to the collector of all suits instituted under this section, within the ten days prescribed; and he is not to admit any appeal from the collector's order of confiscation, which may not be preferred within the period limited, unless satisfactory reason be assigned for the delay; nor in any case, when the appeal may not be preferred in time to give notice of it to the collector before the appointed day of sale." §. 13. "The collector is to report to the Board of Revenue all confiscations and sales which may take place under the preceding section, as well as to furnish them with all other information, reports and accounts, which may be required from him, respecting the stone quarries and duties referred to in this regulation, or any matter relating thereto." §. 14. "The Governor General in Council reserves to himself the power of increasing or reducing the rates of duty established by this regulation, if he should hereafter judge it proper; as well as to pass any further rules respecting the stone quarries in the province of Benares, which may appear expedient." §. 15. "The provisions contained in Sections 81, and 82, Regulation 22, 1795, are to be considered as superseded and done away by the present regulation,

Appeals authorized to the city court.

Section 13. Board of Revenue to be furnished with reports of all confiscations as well as any other accounts, &c. they may require from the collector.

Section 14. Power of increasing or reducing the duty reserved to the Governor General in Council.

Section 15. Sections 81, and 82, Regulation 22, 1795, superseded, except Clause

Fourth of Section 82, exempting the inhabitants of the hills from payment of duty, which is to continue in force, and the collector is to give instructions for providing against the abuse of it.

lation, except Clause Fourth of Section 82, which exempts the inhabitants of the hills from the payment of any duty on stones quarried by them for their own use; and which exemption is still to continue in force; but the collector, in his instructions to the darogahs, is to provide against the abuse of it, in such manner as may be most effectual; and if, notwithstanding, any attempts should be made to extend the exemption beyond the intended privilege to the hill people, the stones, to pass which such attempt may be made, will be liable to seizure and confiscation under Section 11, of this regulation."*

* The gross collections on account of the Benares stone-quarries, in 1815-16, amounted to Benares rupees 41,285 10 10; and the net collections, after deducting rupees 4,199 4, for charges and pensions, to Benares rupees 37,086 6 10.

SECTION X.

STAMP DUTIES.

Object of original rules for levying a stamp duty in the lower provinces and Benares, contained in Regulation 6, 1797.

THE original rules for levying a stamp duty in the provinces of Bengal, Behar, Orissa, and Benares, were prescribed in Regulation 6, 1797; and had in view "to provide for the deficiency occasioned in the public revenue by the abolition of the police tax," which had been established by Regulation 22, 1793, on committing the charge of the police to the officers of Government in the lower provinces; as noticed in the first volume of this Analysis.* The stampt paper issued, and directed to be used for specific purposes, in the first instance, was of the following descriptions:—1. *Law papers*, bearing a stamp of one rupee, eight annas, four annas, and two annas, according to the size of the paper; and required to be used for all original deeds of contract, bargain sale, mortgage, release, or assignment, and other written conveyances, or legal instruments; (excepting deeds relating to marriage settlements;) and copies of all such deeds and instruments, prepared by any cauzy, or moofty; or by the mul-

What stampt paper was required by these rules; and subject to what duty.

Law Papers.

* Page 574.

labs

lahs or other officers of a cauzy. 2. *Pleadings* in the civil courts of judicature, charged with a stamp of four annas, eight annas, one rupee, or two rupees; and directed to be used, for the pleadings in civil suits tried by the judges and registers of the zillah or city courts; by the provincial courts; and court of Sudder Dewanny Adawlut; according to the amount of the cause of action.* 3. *Copies of judicial papers*, furnished to any person, on his application, by the civil courts, on paper bearing a stamp, according to its size, of one rupee, eight annas, four annas, or two annas. 4. *Copies of revenue papers*, furnished to persons applying for the same, by the officers of the Revenue Department, on stamp paper, charged with the same rates of duty, as those prescribed for copies of judicial papers. 5. *Obligations for money*, viz. bonds, promissory notes, or other written obligations, (except bills of exchange,) for the payment of any sum of money exceeding fifty rupees; to be written on stampt paper, bearing a duty of four annas, if the obligation be for more than fifty, but not above one hundred rupees; eight annas, if for more than a hundred, but not exceeding one thousand rupees; or one rupee, if the obligation be for any sum above a thousand rupees. 6. *Custom house rowannahs*, for all articles, except salt and rice, to be written on stamp paper, charged with a duty of four annas, eight annas, one rupee, two rupees, four rupees, or ten rupees, according to the value of the goods, as not exceeding fifty, one hundred and fifty, three hundred, a thousand, five thousand, and ten thousand rupees, respectively; or a duty of twenty rupees, if exceeding the sum last mentioned. 7. *Sunnuds* to cauzies, and authorized vakeels of the courts of judicature, to be written on stamp paper bearing a duty of twenty-five rupees.

Pleadings.

Copies of judicial papers.

Copies of Revenue papers.

Obligations for moneys.

Custom house rowannahs.

Sunnuds to cauzies and vakeels.

By Regulation 10, 1797, "with a view to the improvement of the public resources," the collection of a duty by means of stampt paper was extended to *licenses*, for the manufacture or vend of

Extended by Regulation 10, 1797, to licenses for liquors and drugs.

* See vol. I page 157.

And to complaints for petty offences brought before the magistrates.

spirituous liquors, and intoxicating drugs; and "in order to discourage the numerous petty complaints brought before the magistrates, from litigious or other improper motives," such complaints were required to be written on stamp paper bearing a duty of eight annas. But "the amount of the stamp duties received having proved very inadequate to supply the deficiency of the public revenue, occasioned by the abolition of the police tax," new rates of duty upon obligations for the payment of money, and upon law papers, were established by Regulation 7, 1800; and extended to all acknowledgments for the receipt of money, to an amount exceeding sixteen rupees; except acknowledgments granted on the part of Government, or for sums received from Government, and acknowledgments for the rent of land paying revenue to Government. This regulation likewise required the use of stampt paper for complaints of petty offences preferred through the police officers; as well as for applications to the Board of Revenue, collectors, or other officers in the Revenue Department, for a division of estates, settlement of revenue, or any other matter within the cognizance of that department; and also contained several explanations and amendments of the rules for levying a stamp duty before in force. Further modifications and additions were enacted by Regulations 13, 1806; 8, 1807; 7, 1809; 12, 1812; and 16, 1813. And by Sections 12, to 26, of Regulation 43, 1803, provisions, similar to those established for the lower provinces and Benares, were enacted for the upper provinces, as far as respected the use of stamp paper for pleadings and miscellaneous petitions in the civil courts; copies of judicial papers authenticated by those courts; complaints of petty offences punishable by the magistrates; and applications for the registry of deeds; as well as copies of deeds furnished by the registers, under the rules stated in the first volume of this work.* But it is unnecessary to detail any of these rules; as by Section 2, Regulation 1, 1814, *for amending the regulations before enacted for raising a revenue by means of stamps*, the whole of the regulations

New rates of duty established by Regulation 7, 1800.

And extended to acknowledgments for the receipt of money.

Also to complaints for petty offences when preferred through the police officers. And to applications to officers in the revenue department.

Modifications and additions enacted by Regulations 13, 1806; 8, 1807; 7, 1809; 12, 1812; and 16, 1813. Certain provisions extended to upper provinces by Sections 12 to 26, of Regulation 43, 1803.

Unnecessary to detail these rules as they were all rescinded by Section 2, Regulation 1, 1814.

* Page 205.

above

above mentioned, "and generally all rules respecting the duties levied by means of stampt paper," were rescinded, from the 1st May 1814. The remaining sections of that regulation, with some explanatory and additional provisions, since enacted, contain the rules now in force; and which, therefore, it will be sufficient to state; beginning with the following extract from Regulation 1, 1814.* §. 3. "*First.* A general stamp office shall be established at or near the presidency, under the superintendence of a civil covenanted servant of the Honorable Company, to be designated the superintendent of stamps; and all paper or other material intended for any of the purposes hereinafter mentioned, shall be stampt at his office, and counter-stampt at the General Treasury of Government. *Second.* The superintendent of stamps shall be subordinate to the Board of Revenue, and previously to entering upon the execution of the duties of his office, shall take and subscribe the oath prescribed in the Appendix (form No. 1.†) before one of the members of that Board. *Third.* The superintendent shall prepare and transmit to the different officers entrust-

Rules now in force, contained in remaining sections of that regulation; and provisions since enacted.

Regulation 1, 1814.
Section 3.
A general stamp office to be established at or near the presidency, under a covenanted servant, who shall be designated the superintendent of stamps.

The superintendent of stamps to be subordinate to the Board of Revenue, and to take an oath, as prescribed in Appendix No. 1, of the present regulation.
He shall prepare and transmit stamps to

* The preamble to this regulation declares the former regulations "for raising a revenue, for the support of the state by means of stamps on bonds, deeds of conveyance, and other instruments executed by individuals, and in pleadings filed in the courts of judicature," to have been "in many respects defective in regard to clearness and simplicity; by which means individuals are liable to suffer injury in their property, without any real intention of defrauding Government." It further states, as a reason for consolidating the fee heretofore levied on the institution of regular civil suits and appeals, with a stamp duty on the pleadings in such suits, and also substituting a stamp duty for the fee hitherto paid, on exhibits and summons for witnesses, in the civil courts, that "there are grounds to believe considerable abuses have been committed by some of the native officers attached to the different courts of civil judicature, in collecting and bringing to credit the prescribed fees on the institution of suits, and on exhibits and summons for witnesses: and it will tend to prevent such abuses, and will otherwise promote the convenience both of Government and of the community, to consolidate the institution fee with the duty already levied, by means of a stamp on that part of the pleadings."

† The following is the form referred to:

"I A. B. appointed superintendent of the stamps, solemnly swear, that I will diligently and faithfully execute the duties of the said office, according to the best of my knowledge and judgment; and that I will not directly or indirectly derive, or knowingly allow any person to derive, any pecuniary advantage or emolument, from, or on account of, any matters relating to the said office, excepting such as may be expressly authorized by the Governor General in Council."

"So help me God."

ed

the different officers.

What account of stamps to be kept by him.

ed with the disposal of stamps, the quantities which they may require for use in their respective districts. *Fourth.* The superintendent shall keep an account of the quantity and value of stamps prepared by him; of the issue of stamps; of the sums brought to credit in the several districts; and of the quantity of stamps remaining in store; and he shall prepare and submit to the Board of Revenue such periodical reports and statements as they may require. *Fifth.* It shall be the duty of the superintendent of stamps to proceed in person to any districts in which he, or the Board of Revenue, may at any time conceive that his presence is necessary, with the view of detecting forgeries, or other abuses, or irregularities, committed in the sale of stamps. In like manner, it shall be the duty of the Board of Commissioners to depute an officer for that purpose to any district subject to their superintendence, in which they may have grounds to believe, that offences of that nature are committed."*

The superintendent to proceed in person to any district, in which he or the Board of Revenue may conceive his presence necessary, for the detection of forgeries or other abuses.

The Board of Commissioners may depute an officer to any district subject to their superintendence, for the same purpose.

Section 4. No stamp to be valid, or issued from the stamp office, until it shall have received the prescribed counter-stamp at the General Treasury.

The Sub Treasurer to keep an account of the stamps which may be counter-stamped by him; and to transmit it to the Board of Revenue at the close of each official year.

§. 4. "*First.* No stamp shall be valid, or be issued from the stamp office, until the paper, parchment, leaf of the taur tree (taur puttah,) or other material on which the stamp has been impressed, shall have received the prescribed counter-stamp at the General Treasury. *Second.* The Sub-Treasurer shall keep an account of the quantity and value of the stamps, which may be counter-stamped by him; which account shall be transmitted to the Board of Revenue at the close of each official year, in order that it may be compared with the accounts of the superintendent.

Section 5. Only one set of stamps applicable to every

§. 5. *First.* One set of stamps applicable to every purpose, for which stamps are required by this regulation, shall hereafter be

* The Commissioner in the provinces of Behar and Benares, who has been appointed to superintend the revenues of those provinces, under Regulation 1, 1816, being vested by Section 2, of that regulation, "with all the duties, powers, and authority" hitherto exercised by the Board of Revenue and Board of Commissioners respectively; the stated duty of the Board of Commissioners has devolved, of course, on the Commissioner in Benares; and the same duty must be considered to attach to his office in the four zillahs of the Behar Province within the limits of his Commission.

used

used in the general stamp office, bearing inscriptions in the English, Persian, Bengalee, and Nagree characters, as follow:

purpose for which stamps are required by the present regulation to be used. Inscriptions thereon.

One anna,
Two annas,
Four annas,
Eight annas,
One rupee,
Two rupees,
Four rupees,
Eight rupees,
Sixteen rupees,
Thirty-two rupees,
Fifty rupees,
One hundred rupees,
One hundred and fifty rupees,
Two hundred and fifty rupees,
Three hundred and fifty rupees,
Five hundred rupees,
Seven hundred and fifty rupees,
One thousand rupees,
Two thousand rupees."

"*Second.* The above stamps shall in ordinary cases be impressed on paper of the manufacture of Bengal or Behar, and it shall be the duty of the Board of Revenue to regulate the sizes of such paper, in such manner as may be best adapted to the convenience of the community, without injury to the public revenue, according to the true intent and meaning of the rules contained in the present regulation; provided however, that paper of European manufacture, bearing a stamp of the value herein after specified, shall be used for the copies of the proceedings and judgments of the court of Sudder Dewanny Adawlut, which may be appealed to His Majesty in Council; provided also, that the superintendent shall always keep in deposit a sufficient supply of the leaf of the taur tree (taur puttah) duly stampt for the use of those

In ordinary cases the stamps to be impressed on paper of the manufacture of Bengal or Behar, and the Board of Revenue to regulate the sizes of the paper.

Copies of proceedings and judgments of the Sudder Dewanny Adawlut in appeal to His Majesty in Council to be on paper of European manufacture, bearing a stamp of the value prescribed in the present regulation. Taur puttah to be used in certain districts.

Persons desirous of having instruments executed on vellum, parchment, or other material, entitled to have the same stampt on paying the established duty.

Bonds, deeds, and other instruments executed on such material, if duly stampt, will be received in evidence in the courts of judicature.

Section 6. To prevent forgery, the superintendent or other officers acting under his authority, to endorse his written official signature on the back of each piece of stampt paper or other material.

Section 7. Dies to be prepared at the mint at Calcutta.

Section 8. Size and shape of the dies may be changed as often as the Board of Revenue may deem it necessary.

Prescribed impression not to be altered.

Section 9. Bonds or other instruments, not written on paper bearing the prescribed stampt, not to be admitted in evidence, or received in any court of judicature.

districts in which that material is ordinarily employed for the execution of certain instruments, instead of paper. Provided likewise, that if any person shall be desirous of having any instrument executed on vellum, parchment, or any other material, instead of paper, or taur-puttah, he shall be entitled to have the same stampt, supposing it to correspond nearly with the regulated size of stampt paper, on paying the established duty. Bonds, deeds of conveyance, and other instruments, executed on any material of the above description, will accordingly be receivable, if duly stampt, in evidence in the courts of judicature, in the same manner as if such instruments had been executed on common paper according to the ordinary practice of the stamp office." §. 6. "With the view of preventing as far as possible the forgery of stampt paper, it shall be the duty of the superintendent of stamps, or such officer or officers, acting under his authority, as may be nominated for that purpose by Government, to endorse his written official signature on the back of each piece of stampt paper or other material." §. 7. "It shall be the duty of the mint master at Calcutta to cause the dies, on the application of the Board of Revenue, and in conformity to such suggestions as they may offer, to be engraved at the mint." §. 8. "The size or shape of the dies shall be changed as often as that Board may deem necessary, with a view of detecting or preventing forgeries. Provided however, that nothing herein contained shall be construed to authorize the Board of Revenue to alter the prescribed impression of the dies." §. 9. "From and after the period fixed for the operation of this regulation, any bond, promissory note, bill of exchange, letter of credit, or other obligation for the payment of money; any receipt, or acquittance, by which any sum of money or demand shall be acknowledged to have been paid, received, liquidated, discharged, accounted for, or in any manner satisfied; any deed of gift, sale, devise, or other transfer of property, real or personal; any lease, deed of mortgage, or other limited assignment of land; any deed of contract, partnership, agreement, security, or engagement, which may not have been written

written on paper bearing the prescribed stamp, shall not be admitted in evidence, or otherwise received or filed, in any court of judicature.* Provided however, that if any person shall inadvertently have taken any such bond or other instrument on paper, or any other material, not bearing the prescribed stamp, and shall present the same to any collector of the land revenue within sixty days from the execution of it, with a penalty equal to ten times the amount of the stamp duty, which would have been payable on such bond or other instrument in the first instance, if it had been prepared on paper, or other material, bearing the prescribed stamp, it shall be transmitted by the collector to the superintendent of the stamp office, for the purpose of being duly stampt. Provided also, that if any bond or other instrument required to be written on stampt paper, shall be produced in a court of judicature, having a stamp or signature apparently forged, the judge or other officer, before whom the document may be exhibited, shall make the necessary enquiry, previously to admitting the said instrument in evidence, to satisfy himself whether the paper or other material on which it was written, was purchased at either of the regular places established for the vend of stamps. If it shall appear that the paper or other material was so purchased, (the proof of which must of course rest with the person producing it,) and that it bear a stamp and signature resembling those prescribed by this regulation, it shall be admitted, notwithstanding any doubts which may exist of its authenti-

Proviso.

What steps should be taken as to bonds or instruments having stamps or signatures apparently forged.

* The following explanation of this section is given in Regulation 10, 1814, §. 2. "Nothing contained in Section 9, Regulation 1, 1814, or in any other section of that regulation, shall extend or be construed to extend to engagements which have been or may be contracted between Government and individuals, for the provision of the Honorable Company's investment, or regarding the manufacture of salt, or the culture of the poppy and the manufacture of opium, or the manufacture or sale of spirituous or fermented liquors or intoxicating drugs, or any other matter, in which Government may be one of the contracting parties. All such engagements, and likewise the various instruments mentioned in Section 9, Regulation 1, 1814, to which Government has been or may be a party, shall be received and admitted in evidence in the different courts of judicature, although written on plain or unstampt paper, any thing contained in the said regulation to the contrary notwithstanding."

city;

city; but in the contrary case, that is, supposing the judge or other officer to be satisfied, that the stampt paper upon which the deed produced may be written, was not purchased from any of the authorized venders, or, if so purchased, that the party producing it was privy to the forgery, the deed in question shall be rejected as inadmissible in evidence."

Section 10. An office to be established in each district for the sale and distribution of stamps, under the superintendence of the collectors of the land revenue, who shall be allowed a commission. The collectors to indent upon the superintendent of the general stamp office for such quantities as they may require. A darogah of stamps to be appointed at each of the stations of the collectors, who shall be paid either by salary or commission. Duty of the darogah of stamps.

§. 10. *First.* "An office for the sale and distribution of stamps shall be established in each district, under the superintendence and responsibility of the collectors of the land revenue; who shall receive a commission of five per cent on the gross produce derived from the sale and distribution of stamps in such district." *Second.* "The collectors shall indent upon and grant receipts in duplicate to the superintendent of the general stamp office for such quantities of stamps as may be required by them for the supply of their respective districts." *Third.* "A darogah of stamps shall be appointed at each of the stations of the collectors and assistant collectors, who shall be paid by commission, or by salary, or partly commission and salary, as the Board of Revenue and Commissioners, with the sanction of Government, may deem most advisable." *Fourth.* "It shall be the duty of the darogah of stamps to count and examine the stamp paper received from the stamp office, and to countersign the receipts granted by the collector." *Fifth.* "Licensed venders of stampt paper shall be established in every pergunnah, or at such places as the Board of Revenue and Board of Commissioners may determine; who shall be paid by salary or commission, or partly by salary and commission, as those boards respectively may, with the sanction of Government, direct. It shall be the duty of the collectors to cause those officers to be at all times adequately supplied with the requisite quantities of each sort of stampt paper. In like manner, it shall be the duty of the Board of Revenue, and Board of Commissioners, at all times, to satisfy themselves that no obstacles occur to the mercantile business, or other pecuniary transactions of the country, from any delay or difficulty in procuring stampt paper required for the conduct of the affairs of individuals." *Sixth.* "Every stamp

Licensed venders of stamp paper to be established in certain places who shall be paid either by salary or commission, and to be at all times adequately supplied with the requisite quantities.

stamp darogah, and every person authorized to retail stamps, shall give security to the collector for the due performance of an engagement to be executed by him, agreeably to the forms prescribed in the Appendix Nos. 2 and 3,* and shall receive a sun-

Stamp darogahs and persons authorized to retail stamps, to execute certain engagements and to receive certain sunnuds.

* No. 2. Form of engagement to be executed by persons appointed to the office of stamp darogah.

"I A. B. appointed by the collector of C———, to be stamp darogah, do hereby engage to perform the duties attached to the office of stamp darogah. I will carefully count and examine the stamps transmitted from the general stamp office, and attest the receipts executed by the collector for the same; and likewise prepare the indents for the supplies of stamps which may be required from the superintendent."

"I will cause the different stamp venders established in the district to be supplied, in pursuance of such instructions as I may receive from the collector, with proper quantities of stampt paper; and I will carefully examine, and compare the accounts of such stamp venders. I will be responsible for the accounts of the stamp office, and for the value of the paper entrusted to my charge; and I will do every thing in my power to prevent imposition and fraud in the stamp office; and will submit to the collector any information which I may obtain respecting the forgery or fabrication of stamps."

"Executed before me, this ——— day of ———

(Signed) "C. D.

"Collector."

No. 3. Form of engagement to be executed by persons appointed to the office of stamp vender.

"I A. B. appointed to vend stamps at C———, in the pergunnah of D———, in the district of E———, do hereby engage faithfully to observe the following conditions:—

"1st. That I will carefully examine every stampt paper which may be entrusted to me for sale; and certify in my receipts for the same, that such paper bears the stamp of Government, and the signature of the superintendent or his assistant."

"2d. That I will not charge more, for any stamp or stamps entrusted to me for sale, than the established price for such stamp or stamps."

"3d. That I will monthly prepare and deliver to the stamp darogah, or such persons as may be authorised to receive the same, a faithful account of all the stamp paper which may be sold by me; and will likewise specify the balance which may remain in store, under my charge; and will on no account allow any person to take stampt paper away without receiving, and bringing to account, the price of such stampt paper."

"Executed before me, this ——— day of ———

(Signed) "C. D.

"Collector."

What accounts to be kept by the stamp darogah.

nud prepared agreeably to the forms Nos. 4 and 5.* *Seventh.* The stamp darogah shall keep an account of the quantity and value of stamps supplied by him to the different venders; and every vender shall keep a day book, exhibiting the stamps sold by him; which day book shall be transmitted to the zillah stamp office at the end of each month; and every vender shall, on receiving a supply of stampt paper for sale from the stamp darogah, grant a receipt for it. He shall at the same time carefully examine the stampt paper entrusted to his charge, to satisfy himself that it bears the government stamp, which he must certify in the receipt granted to the stamp darogah. *Eighth.*

The collector to transmit to the

* No. 4. Form of sunnud to be granted to persons appointed to the office of stamp darogah.

L. S.

"Whereas A. B. has executed the engagement prescribed by Clause Sixth, Section 10, Regulation 1, 1814, to be entered into by persons appointed to the office of stamp darogah; I, C. D. collector of E ———, do hereby constitute and appoint the said A. B. to be darogah of the zillah stamp office under my charge."

"Given under my hand and seal,
"this ——— day of ———
(Signed) "C. D.
"Collector."

No. 5. Form of sunnud to be granted to persons appointed to the office of stamp vender.

L. S.

"Whereas A. B. has duly executed the engagement required by Clause Sixth, Section 10, Regulation 1, 1814, to be executed by persons authorized to sell stamps, I, C. D collector of E ———, do hereby authorize the said A. B. to be a stamp vender, and to open an office for the sale of stamps at ———, in purgunnah ———, in the district under my charge."

"Given under my hand and seal,
"this ——— day of ———.
(Signed) "C. D.
"Collector."

The

The collectors shall transmit to the general stamp office such accounts as the superintendent may require, with the consent and approbation of the Board of Revenue," *Ninth.* "No person, excepting the superintendent of stamps, the collectors of the land revenue, or other European officers invested with the charge of the office for the sale and distribution of stamps, and the authorized native venders, shall be deemed competent to sell stamps; and any other person who may sell stamps, in opposition to this prohibition, shall be liable to be prosecuted for such act before the magistrates, and punished on conviction to the full extent of the powers vested in the magistrates by the general regulations."

general stamp office such accounts as may be required by the superintendent.

No other persons to sell stamps, excepting those authorized by the present regulation, under pain of execution and punishment.

§. 11. "From and after the date specified in the preamble to this regulation, every bond, promissory note, bill of exchange, letter of credit, or other obligation for the payment of money; every receipt or acquittance, whereby any sum of money or demand shall be acknowledged to have been paid, received, liquidated, discharged, accounted for, or in any manner satisfied; every deed of gift, sale, devise, or other transfer of property, real or personal; every lease, deed of mortgage, or other limited assignment of land; every deed of contract, partnership, agreement, security, or engagement; which may be executed within the provinces subject to the presidency of Fort William in Bengal: shall be written on paper (on some other material) impressed with the Government stamp, the value of which stamp shall be regulated as follows:—

Section 11. What instruments to be written on stampt paper, and how the value is to be regulated.

TABLE.

1. If the bond or other instrument shall be for a sum not exceeding sixteen rupees, or if the value of the property transferred or otherwise affected by it shall not exceed sixteen rupees, the deed shall be executed on stamp paper of the value of one anna.

2. If above 16 rupees, and not exceeding 64 rupees—two annas.

3. If above 64 rupees, and not exceeding 125 rupees—four annas.

4. If above 125 rupees, and not exceeding 250 rupees—eight annas.

5. If

5. If above 250 rupees, and not exceeding 500 rupees—one rupee.

6. If above 500 rupees, and not exceeding 1000 rupees—two rupees.

7. If above 1000 rupees, and not exceeding 2000 rupees—four rupees.

8. If above 2000 rupees, and not exceeding 5000 rupees—eight rupees.

9. If above 5000 rupees, and not exceeding 10,000 rupees—sixteen rupees.

10. If above 10,000 rupees, and not exceeding 20,000 rupees—thirty-two rupees.

11. If above 20,000 rupees, and not exceeding 50,000 rupees—fifty rupees.

12. If above 50,000 rupees, and not exceeding 100,000 rupees—one hundred rupees.

13. If above 100,000 rupees—one hundred and fifty rupees.* "

Section 18. All pottahs, caboolyets or

§. 12. "To prevent misconstruction, it is hereby declared, that every lease and its counterpart (pottah and caboolyet) or other

* By Section 18, Regulation 26, 1814, it is further provided that "all authenticated copies of the documents specified in Section 11, Regulation 1, 1814, which may be prepared as legal vouchers by a cazee, mooftee, or other authorized person, shall be written on stamp paper according to the rates prescribed for the originals of such deeds: any copies not written on such paper will not be admissible in evidence, under Section 9, Regulation 1, 1814." It is at the same time declared by Section 19, Regulation 26, 1814, "that security bonds for appearance (hazer zaminee), security bonds for the payment of eventual costs of suit, as well as all other security bonds not being for a specific amount, and all deeds of contract, partnership, or agreement, and engagements of whatever nature, which may not relate to a specific sum of money, or to a specific value, so as to make it practicable to apply to them the table of rates stated in Section 11, Regulation 1, 1814, are required to be written on stamp paper of the value of one rupee, under the penalty declared in Section 9, Regulation 1, 1814." Doubts having arisen whether *kabeen-námahs*, or deeds of marriage settlement, (which had been exempted from the stamp duty on law papers established by Regulation 6, 1797,) were to be written on stamp paper under the general rule, and rates prescribed, in Section 11, Regulation 1, 1814, it was further declared in Section 26, Regulation 26, 1814, "that the provisions of that section were and are intended to be applicable to deeds of marriage settlement, in common with other deeds of contract for a specific amount."

engagement

engagement contracted between landlord and tenant, every receipt (dakelah) or other acknowledgment for the payment of rent, is required to be written on paper bearing the prescribed stamp, supposing that such lease, receipt, or other instrument relate to lands held exempt from the payment of revenue to Government; but that instruments of the correspondent descriptions, which have relation to lands subject to the payment of revenue to Government, need not be written on stampt paper." §. 13.

other instruments relative to lands held exempt from the payment of revenue to Government, to be written on stampt paper.

But such instruments relative to lands subject to the payment of revenue to Government, need not be written on stampt paper.

"From and after the date specified in the preamble to this regulation, the fees hitherto paid on the institution of civil actions, on summonses, and on exhibits, shall be discontinued, and the following stamp duties shall be levied in lieu thereof.*

Section 13. Fees hitherto paid on the institution of civil actions, on summonses, and on exhibits, to be discontinued; and a stamp duty to be levied in lieu thereof.

TABLE.

Table of rates.

In suits instituted in any court of judicature, and in appeals preferred from the judgments of any such court, to a superior court, if the amount or value of the property claimed shall not exceed sixteen rupees, the plaint or petition shall be written on paper of one rupee.

If above 16 rupees, and not exceeding 32 rupees—two rupees.

If above 32 rupees, and not exceeding 64 rupees—four rupees.

If above 64 rupees, and not exceeding 150 rupees—eight rupees.

If above 150 rupees, and not exceeding 300 rupees—sixteen rupees.

If above 300 rupees, and not exceeding 800 rupees—thirty-two rupees.

* The following explanations of this and the four succeeding sections are added, in Section 20, Regulation 26, 1814. "*First.* Sections 13, 14, 15, 16, and 17, Regulation 1, 1814, are meant to apply only to original regular suits, and to appeals, regular or special, from judgments passed on the merits of such suits; and not to summary suits; or to summary appeals; or to miscellaneous petitions or applications of any description. *Second.* In all original summary suits and summary appeals authorized by the regulations, and in all miscellaneous applications, the plaint, petition, or application, the answer, and other pleadings, shall be written on the stampt paper prescribed in Section 18, Regulation 1, 1814. *Third.* The provisions of Section 15, Regulation 1, 1814, are not intended to apply to exhibits accompanying or referring to any miscellaneous petition or application, which under Section 10, Regulation 6, 1797, and Section 10, Regulation 43, 1803, were formerly liable to the payment of a fee on such exhibits being filed."

If above 800 rupees, and not exceeding 1600 rupees—fifty rupees.

If above 1600 rupees, and not exceeding 3000 rupees—one hundred rupees.

If above 3000 rupees, and not exceeding 5000 rupees—one hundred and fifty rupees.

If above 5000 rupees, and not exceeding 10,000 rupees—two hundred and fifty rupees.

If above 10,000 rupees, and not exceeding 15,000 rupees—three hundred and fifty rupees.

If above 15,000 rupees, and not exceeding 25,000 rupees—five hundred rupees.

If above 25,000 rupees, and not exceeding 50,000 rupees—seven hundred and fifty rupees.

If above 50,000 rupees, and not exceeding 100,000 rupees—one thousand rupees.

If above 100,000 rupees—two thousand rupees."*

Section 14. In suits for land paying revenue to Government, the value of the property how to be assumed.

§. 14. *First.* "In suits for land paying revenue to Government, the value of the property shall be assumed in the ceded and conquered provinces, including Cuttack, at the amount of the annual

* In the first clause of Section 7, Regulation 26, 1814, it is provided that "If during the trial of any regular suit it shall appear that the plaint has been written on stamp paper of a less value than that, which ought to have been used under the provisions of Sections 13, and 14, Regulation 1, 1814, and the court shall be of opinion that the error or omission did not arise from any fraudulent motive, or from any design on the part of the plaintiff to evade the provisions of the Regulations, it shall be competent to the court, either to permit or to direct the plaintiff, or appellant, in the suit, to file a duplicate of the plaint on stamp paper of such a value, as may be sufficient to complete the full amount of the stamp duty prescribed by the sections above mentioned." With reference to the provisions of Section 4, Regulation 13, 1808, (stated in the first volume of this Analysis, page 591) it is further declared in the second clause of Section 7, Regulation 26, 1814, "that if on the trial of any summary appeal, preferred under Section 4, Regulation 13, 1808, the provincial court shall be of opinion, that the original suit was not from it's amount regularly cognizable in the zillah or city court, but that the irregularity in the institution of such suit did not arise from any fraudulent motive on the part of the plaintiff, it shall be competent to the provincial court to direct the zillah or city judge to refund to the plaintiff the amount of the fee or stamp duty paid by him, on instituting the suit in the zillah or city court; and the plaintiff shall be permitted to institute his suit de novo in the provincial court."

jumma

jumma payable on account of the land in question to Government; and in the provinces of Bengal, Behar, Benares and Orissa, excepting Cuttack, as already noticed, at three times the amount of the annual jumma payable on account of the land to Government."* *Second.* "In suits for lands held exempt from the payment of the public revenue to Government, the value of the property shall be assumed throughout the country at eighteen times the amount of the computed annual produce of the land." *Third.* "In suits for houses, gardens, tanks, or other property, real or personal, excepting the two descriptions of lands mentioned in the two preceding clauses, and in actions for the recovery of damages in matters relating to marriage, cast, or any personal injury, the value shall be estimated according to the rule contained in Section 3, Regulation 4, 1793, and Section 3, Regulation 3, 1803."† *Fourth.* "It is not intended by the provisions of this regulation to deprive the registers of the zillah and city courts, or the native commissioners, of the established proportion of the fees hitherto received on suits which may be instituted in the zillah and city courts, and referred to them for decision. But as those fees are now incorporated under Section 13, of the present regulation, with the stamp duty, payable on the plaint or petition, it shall be the du-

In suits for land held exempt from the payment of revenue to Government, the value of the property how to be assumed.

In suits for houses, gardens, or other property, and in actions for the recovery of damages in matters relating to marriage, &c. the value how to be estimated.

Registers and native commissioners entitled to receive the fees incorporated with the stamp duty under Section 13, of the present regulation.

* The difference of valuation in this clause has an obvious reference to the variable assessment, still subsisting in the upper provinces and Cuttack; and the permanent settlement of it in the lower provinces (exclusive of Cuttack) and Benares. The valuation at three times the amount of the annual fixed revenue, in the latter provinces, was founded on an average of the public sales; and proves incontestably the enhanced value of landed property under a perpetual assessment. The assumed valuation however being applicable only to entire estates, distinctly assessed, or to specific proportions of such estates, (the proportionate assessment of other undivided portions not being ascertainable previous to a partition), it is explained in Section 23, Regulation 26, 1814, that "in suits for malgoozaree land, not constituting an entire estate distinctly assessed, or a specific proportion of such estate, the value of the land claimed is to be assumed and estimated according to Clause Third, of Section 14, Regulation 1, 1814."

† Vide vol. 1. page 64. It may however be convenient to state the rule, in this place, in the terms of Section 3, Regulation 4, 1793, and Section 3, Regulation 3, 1803, as follows: "If the complaint be for a house, garden, tank, or any real property not being malgoozary or lakheraj land; or any valuable thing; or relating to marriage or cast; or for damages for any injury; it is to state, according to the nearest estimate, the exact sum of money, or the amount in which the plaintiff may be endamaged."

ty

ty of the zillah and the city judges to cause accounts of the proportion of the fees receivable by the registers and native commissioners, under the existing rules, to be prepared at the expiration of every month, and to attest the same with their seals and official signature. The account so authenticated shall be deemed a sufficient warrant to the collectors for the payment of the amount receivable on the above account by the registers and native commissioners." §. 15. "No exhibit shall be filed in any court of judicature without a derkhaust or application, praying the admission of the exhibit; which derkhaust shall be written on stampt paper, as follows:—

Section 15. No exhibit to be filed without a derkhaust or application, praying its admission, written on stampt paper of a prescribed value.

In the court of the register; on paper of the value of eight annas.

In the zillah and city courts, on paper of the value of one rupee.

In the provincial courts of appeal; and in the Sudder Dewanny Adawlut; on paper of the value of two rupees."*

Section 16. No summons to be issued for the attendance of a witness, without a derkhaust written on stampt paper of the value specified in the preceding section.

§. 16. "In like manner, no summons shall be issued for the attendance of any witness, without a derkhaust or application, praying the attendance of such person, which derkhaust shall be written on stampt paper of the value specified in the preceding section, according to the court in which it may be delivered and recorded."

Section 17. Every answer,

§. 17. "Every answer, replication, and rejoinder, every supple-

* In modification of this and the next section, it is declared, by Section 22, Regulation 26, 1814, "that in lieu of filing a separate derkhaust or application for the admission of each exhibit, and the attendance of each witness, it shall be sufficient to file one or more applications or lists, including any number of exhibits desired to be filed, and the names of any number of witnesses desired to be summoned; provided, that such applications or lists be written on one, two, or more sheets or rolls of stampt paper, the total value of which shall correspond in amount with that of the stampt paper, which would have been requisite, had the application for each exhibit, or witness, been written on spearate stampt paper, under the rules contained in Sections 15, and 16, Regulation 1, 1814." It is further explained by Section 24, Regulation 26, 1814, "that vakalutnamahs and mokhtarnamahs, arbitration bonds, security bonds for appearance, as well as security bonds for the eventual payment of costs, or for the performance of a decree, or for staying or enforcing the execution of a decree, which may be executed in any original suit or appeal, are not liable to the stamp duty on exhibits, prescribed by Section 15, Regulation 1, 1814."

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ment, razenamah, sooloonamah, ruffanamah, or petition, which shall hereafter be filed in any suit, shall be written on stampt paper, as follows:

replication and rejoinder, &c. which may be filed in any suit to be written on stampt paper of a specified value.

In the court of the register, on paper of the value of eight annas.

In the zillah and city courts, on paper of the value of one rupee.

In the provincial courts of appeal, and in the Sudder Dewanny Adawlut, on paper of the value of four rupees.*"

Section 18. Miscellaneous petitions and applications of certain descriptions in the revenue and judicial departments to be written on stampt paper of a specified value.

§. 18. "All miscellaneous petitions and applications, which may be presented to the different authorities in the Revenue and Judicial Departments, all mooktearnamahs, wakalutnamahs, and all charges preferred to the magistrates for adultery, fornication, rape, calumny, abusive language, slight trespass, or inconsiderable offences, (excepting always cases of mayhem, actual affrays, and tumultuary assemblies of the people,) shall be written on stampt paper, as follows:

If preferred to a collector or assistant collector of the land revenue or customs; to either of the superintendents of police; to a zillah or city judge, or magistrate; or to any other authority subordinate to the provincial courts; on paper of eight annas.

* It will be observed that the rule is not applicable to the pleadings in original suits before the native Commissioners, whether moonsiffs, or sudder aumeens. Sections 16, 25, 29. 38, 41, 45, 70 and 73, of Regulation 23, 1814, which has been enacted since the first part of this Analysis was printed, and comprises the whole of the rules in force regarding the office of moonsiff and sudder aumeen, state specifically in what cases the use of stamp paper is required in suits instituted before the moonsiffs; or originally instituted in the zillah or city courts, and referred to the sudder aumeens; viz: for the plaint only, in conformity with Section 13, Regulation 1, 1814; and for the petition to enforce the degree of the native commissioner, which is directed to be presented to the zillah or city judge, on the stampt paper prescribed by Section 18, Regulation 1, 1814. It must be added however that in the trial of appeals from decisions of the moonsiffs, which may be referred to the sudder aumeens, under Section 75, Regulation 23, 1814, they are directed, in the third clause of that section, to observe *the rules prescribed for the trial anddetermination of appeals by the zillah and city courts*; and as such rules prescribe the use of stamp paper for pleadings, as well as for lists of exhibits and witnesses, the court of Sudder Dewanny Adawlut have construed the use of it to be equally requisite with respect to any new pleadings, and lists of exhibits or witnesses, filed on the appeal, whether tried by a judge, or register, or by a sudder aumeen.

LIBRARY.

If preferred to a provincial court of appeal or circuit; on paper of one rupee.

If preferred to the court of Sudder Dewanny Adawlut or Nizamut Adawlut; or to the Board of Revenue or Board of Commissioners; on paper of two rupees.*"

Section 19. No copy of any paper to be authenticated by any public officer, or received in evidence, unless transcribed on stampt paper, according to the rates specified in this Section.

§. 19. "No copy of any paper shall be authenticated by any public officer, or received as evidence in any court of judicature, unless transcribed on stampt paper, according to the following rates, viz.

Copies of decrees passed by registers, and by judges of the city and zillah courts, shall be written on paper of the value of one rupee.

Copies of decrees passed by the provincial courts of appeal, on paper of two rupees.

Copies of decrees passed by the court of Sudder Dewanny Adawlut, shall be written on paper of four rupees.

Copies of the proceedings of the court of Sudder Dewanny Adawlut, prepared in order to be transmitted to His Majesty in Council, shall be transcribed on paper of the value of two rupees.

Authenticated copies of revenue and judicial proceedings; authenticated copies of accounts, statements, reports, or other documents, which individuals may require for use or reference, shall be written on paper of the value of eight annas.†"

§. 20.

* Applications for the execution of decrees, passed subsequently to the 1st February 1815, are required by the fifth clause of Section 15, Regulation 26, 1814, to be written "on the stampt paper prescribed in Section 18, Regulation 1, 1814." Petitions for a review of decided causes are also directed, by the second clause of Section 4, Regulation 26, 1814, to be written on stampt paper of the same description. But it is provided in Section 21, Regulation 26, 1814, that "all applications made by the collectors, or the assistant collectors, or by the Board of Revenue, or Board of Commissioners, to the courts of judicature, for the apprehension or confinement of defaulters, or any other subject relating to the public revenue, may be written upon common paper without a stamp. This rule however shall not be considered applicable to any regular suit in which the Board of Revenue, or the Board of Commissioners, a collector, or an assistant collector, may be a party, either on their own account as individuals, or on the part of government."

† In addition to this section, the following clauses are enacted in Section 16, Regulaion

§. 20. "It shall be the duty of the Board of Revenue, and Board of Commissioners respectively, to cause the greatest possible publicity to be given to the provisions of the present regulation; and especially to the rates of duty thereby established on stampt paper." §. 21. "It shall likewise be the duty of the Board of Revenue and Board of Commissioners, and of the officers acting under their authority, to adopt all legal and proper measures for the conviction and punishment of persons suspected of forging or selling stampt paper, or uttering it knowing it to be forged; and likewise for the punishment of any authorized vender of stamps, either by means of a criminal prosecution, or by dismission from office, as may appear most proper according to the circumstances of the case, who may be guilty of exacting more than the prescribed rates for the sale of stamps." §. 22. "The collectors and assistant collectors of the land revenue shall in ordinary cases be vested with the charge of the stamp office ordered by the present regulation to be established in each zillah. The Governor General in Council however reserves to himself the power of nominating any other public officer, or deputing specially any other covenanted servant of the Honorable Company, to take charge of any such stamp office in

Section 20. The Board of Revenue and and Board of Commissioners to cause the greatest possible publicity to be given to the present regulation, and the rates of duty established in it.

Section 21. The Board of Revenue and Board of Commissioners, and the officers acting under their authority, to adopt all legal and proper measures for the conviction and punishment of persons forging or selling stamp paper, or guilty of other abuses.

Section 22. The collectors of the land revenue shall be vested, in ordinary cases, with the charge of the stamp office ordered to be established in each zillah; but power reserved to government to nominate any other public officer to take charge of any such office.

gulation 26, 1814. "*First.* In explanation of Clause Second, Section 5, Regulation 1, 1814, it is hereby enacted, that paper of European manufacture, bearing a stamp of the value specified in Section 19, Regulation 1, 1814, shall be used for all copies of decrees in regular or summary suits, which may be furnished to the parties by the judges, assistant judges, or registers of the zillah and city courts, by the provincial courts, and by the Sudder Dewanny Adawlut. *Second.* Copies of decrees, which may be prepared by those courts, to remain with their own records, shall be written on stamp paper of European manufacture, of the same size and description as that which may be stampt for the copies of decrees to be delivered to the parties. *Third.* Copies of proceedings and orders, accounts, statements or other papers, made for records of courts, or for transmission to other courts, or public offices, may be written as heretofore on unstampt paper, except in cases in which it may be otherwise specifically provided for by the regulations. *Fourth.* It is hereby declared, that the provisions of Regulation 1, 1814, are not intended to preclude individuals from making for their private use, and at their own expense, copies of judicial or revenue papers, with the permission of the court, collector, or other public officer having charge thereof, on any paper which they may prefer; but if such copies be not made on stampt paper, they shall not be authenticated by the seal or signature of any court, collector, or other public officer, and shall not be received as evidence in any court of judicature, or in any public office whatever."

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any district, in which that measure may appear to him to be advisable; and persons so nominated, or deputed, shall be entitled to exercise all the powers, and enjoy the emoluments, granted to collectors of the land revenue by this regulation.

Additional provisions, enacted in Regulation 26, 1814. Section 5. Provisions to prevent superfluous pleadings, and evasions of the stamp duty.

Pleadings and other documents on stampt paper how to be written.

Rule to be adopted when the whole of the subject matter of a plaint or other pleading cannot be contained in a single sheet of stampt paper.

Fine to be imposed on a breach of the preceding rules.

The following additional provisions are enacted in Regulation 26, 1814. §. 5. "*First.* In order to prevent the unnecessary occupation of the time of the public officers by the introduction of superfluous matter into the pleadings and petitions of parties, and to guard against the evasion of the rules prescribed by Regulation 1, 1814, for raising a revenue by means of stamp duties, the following provisions are hereby enacted. *Second.* All pleadings, petitions, and applications, all deeds, documents and other papers, whether originals, or copies, which are required by the regulations to be written on stampt paper, are to be written in a fair, legible manner, and as they have been hitherto usually prepared, as well with regard to the size of the writing, the space between the words, and the number of lines in each page, as to all other matters regarding their engrossment. *Third.* If the subject matter of any plaint, or petition of appeal, cannot, under the rule contained in the preceding clause, be conveniently comprised in a single sheet, or roll of the stampt paper, prescribed for such plaint, or petition of appeal, any additional sheets or rolls, which may be required for that purpose, shall be of the description of stampt paper specified in Section 17, Regulation 1, 1814. In like manner, if the subject matter of any answer, reply, rejoinder, or other pleading, cannot be comprised in a single sheet or roll of the stampt paper prescribed for such pleading, any additional sheets or rolls, which may be required for that purpose, shall be of the description of stampt paper, specified in Section 17, Regulation 1, 1814. *Fourth.* If a party or vakeel or other person shall hereafter file in a zillah or city court, in a provincial court, or in the Sudder Dewanny Adawlut, any plaint, or pleading, required to be written on stampt paper, which may not have been prepared in conformity with the foregoing provisions of this

this section, the court is authorized, to impose on such party, vakeel, or other person, any fine which they may deem proper; provided that such fine shall in no instance exceed three times the amount or value of the additional stampt paper, which would have been required had the plaint or pleading been drawn up in conformity with the foregoing provisions. *Fifth.* If the subject matter of any miscellaneous petition or application, or of other papers specified in Section 18, Regulation 1, 1814, cannot, under the rule contained in clause second of this section, be conveniently comprized in a single sheet or roll of the prescribed stampt paper; any additional sheets or rolls, which may be required for that purpose, shall be of the value and description specified in the said section of the regulation in question; and if any such petition or paper, which may not have been prepared in conformity with the foregoing rule, and with the rules contained in clause second of this section, shall be hereafter presented to any of the courts or officers specified in Section 18, Regulation 1, 1814, such court or officer is hereby authorized to impose a fine on the party or person presenting, under the same limitations as are prescribed in the preceding clause." §. 17. "*First.* Any ministerial officer, who may hereafter file in any court of justice, or in the office of any collector, or other public officer, without the written order of such officer, any petition, pleading, or other document, required to be written on stampt paper, which may not have been written on the prescribed stampt paper, or who shall furnish a copy of any paper or proceeding required to be written upon stampt paper, on any other paper than the required stamp paper, shall be liable to dismission from office, and to the payment of a fine to Government equal to ten times the amount of the stamp duty, which would have been payable if the prescribed stamp paper had been used for such petition, pleading, or other document. *Second.* Such penalty shall be recoverable by a summary process in the courts of dewanny adawlut." §. 25. "*First.* With reference to the rules in force under which the civil courts are authorized or directed to return the institution fee, or a portion of it, to a party in a suit, or to

Similar provisions with reference to miscellaneous petitions or applications.

Section 17. Penalties for filing or furnishing copies of papers not written on the prescribed stampt paper.

Penalty how to be recovered.

Section 25. Rules for refunding the stamp duty substituted for the institution fee, in cases autho-

Fixed by the regulations.

his legal representative, it is hereby declared, that in suits instituted subsequently to the 1st of May 1814, to which the rules above alluded to may become applicable, the courts shall cause to be paid to the party, or to his legal representative, the whole or a portion of the amount of the stamp duty substituted for the institution fee, to which such party may be entitled. *Second.* The principles of the preceding rule are declared to be equally applicable to fees payable under the existing regulations to moonsiffs, sudder aumeens and registers, on the decision of suits in which the stamp duty may have been substituted for the institution fee. *Third.* It shall be the duty of the proper officers of Government to issue such instructions for the guidance of the judicial and revenue officers, as may appear requisite, with regard to the mode of discharging in the first instance, such sums as may become payable under the two preceding clauses, and for the purpose of facilitating the regular adjustment of the stamp accounts."*

And for the payment of fees to moonsiffs, sudder aumeens and registers.

Instructions to be issued by the proper officers, regarding the mode of paying sums due under the preceding clauses, and of adjusting the stamp accounts.

Provisions in Regulation 28, 1814, for exempting paupers, from the stamp duty, substituted for the institution fee in original suits and appeals;

It remains only to mention, under the present head, that Regulation 28, 1814, *for reducing into one regulation, with amendments and modifications, the several rules which have been passed for admitting persons of certain descriptions to sue in the courts of civil judicature as paupers,* contains provisions for exempting persons admitted to sue as paupers from the stamp duty substituted for the institution fee by Regulation 1, 1814. Pauper plaintiffs and defendants, as well as appellants and respondents, in regular

Also exempted from the use of stampt paper for pleadings, suits

* In pursuance of this clause, instructions were issued by the accountant to the Board of Revenue, in concurrence with the sentiments of the court of Sudder Dewanny Adawlut, on the 10th August 1815, to the following effect. "The collectors are directed to pay to the judges of the zillah, city, and provincial courts, within their respective jurisdictions, the whole amount of the stamp duty payable to registers, and native commissioners; or to parties in suits adjusted by razeenamah; requiring, as their voucher, (in conformity with the fourth clause of Section 14, Regulation 1, 1814,) a monthly account, exhibiting the particulars and amount of each description, under the judge's official seal and signature." The judges were, at the same time, informed "that the amount received by them from the collectors, under these instructions, is to be credited in their cash accounts under the head of *stamp fees*; and that they are to charge their monthly payments to the Registers, native commissioners, and parties, under the same head, with a specification of the amount paid to each."

original

original suits and appeals, are also exempted from the use of stampt paper for their pleadings, and lists of exhibits or witnesses. They are further allowed to have a copy of the decree, as well as copies of any orders or proceedings which they may be required to take, on unstampt paper. And it is provided that, on the conclusion of the suit, the court shall calculate the whole of the costs which would have been incurred by the pauper, for the prescribed stamp duties, had he not been exempted from them, "and shall charge the same in the decree to the party cast, or to the parties respectively, in such proportions as may be deemed equitable." The original petition, for admission as a pauper, whether by a plaintiff or defendant, appellant or respondent, is however required by Sections 5, 12, and 16, of Regulation 28, 1814, to be "written on the stampt paper prescribed for miscellaneous petitions in Section 18, Regulation 1, 1814;" and the following rule is contained in the concluding section of that regulation. §. 19. "Doubts having arisen whether the courts of civil and criminal judicature, the Board of Revenue, the Board of Commissioners, the collectors and other public officers, are authorized to receive from persons professing themselves to be paupers, any miscellaneous petitions, or applications, which are required to be written on stampt paper, on any other paper than the prescribed stampt paper; it is hereby declared, that such petitions or applications shall not be received by any of the said authorities except on paper bearing the prescribed stamp. Provided however, that the courts of criminal judicature shall be at liberty to receive petitions on unstampt paper from prisoners, who may be confined, under examination or sentence, in any of the criminal jails. The latter provision is extended, by Section 2, Regulation 4, 1816, whereby it is further provided "that the courts of civil judicature may receive petitions upon unstampt paper from prisoners who may be in actual confinement, under a decree of court, or under any judicial process, civil or criminal, if the court, to which the petition may be presented, shall be satisfied, by the oath of the party, or otherwise, that he is unable to pay the prescribed stamp duty, for the purpose of delivering

of exhibits and summonses for witnesses.

And allowed to have copies of decrees and orders on unstampt-paper.

To whom the stampt duties are chargeable in such cases, on conclusion of the suit.

On what paper the original petition, for admission as a pauper is to be written.

And what paper to be used for miscellaneous petitions and applications of professed paupers.

Proviso.

Regulation 4, 1816, section 2. Courts of civil judicature empowered in certain cases, to receive petitions on unstampt paper from persons in confinement under a decree of court, or under any judicial process civil or criminal.

vering such petition upon stampt paper; or without any oath, or proof to this effect, if the petition shall relate to any ill treatment alleged to have been sustained by the prisoner, during his confinement, from an officer of the jail or other person."*

SECTION XI.

TAX ON LIQUORS AND DRUGS.

Reasons for continuing and extending the duties upon spirituous or fermented liquors, and intoxicating drugs, when the sayer collections were resumed from the landholders, and partly abolished.

WITH a view to check the immoderate use of spirituous or fermented liquors, and intoxicating drugs, and at the same time to augment the public revenue, it was judged expedient to continue, and extend, the duties levied upon such articles, under the general designation of *abkary*, or distillery, when the *sayer* collections were resumed from the landholders, in the year 1790; and afterwards for the most part abolished, as stated under a former section. Successive rules and orders were accordingly issued, on this subject, in 1790, 1791, and 1792;† which were subsequently enacted, with modifications, in Regulation 34, 1793, for the lower provinces, and extended to Benares, with local provisions, by Regulation 47, 1795. The original rules were amended by Regulation 6, 1800, for the purpose of more effectually accomplishing the original objects of the tax "by enhancing the price to the consumer;" as well as to give the magistrates a more immediate and efficient control over the conduct of the venders; and to render the tax, as much as possible, conducive to the geneal purposes of police. These rules, with others passed in subsidiary regulations, were re-enacted for the ceded provinces by Regulation 40, 1803; and extended to the conquered provinces

Rules and orders on this subject, in 1790, 1791, and 1792.

Re-enacted in Regulation 34, 1793.

Extended to Benares by Regulation 47, 1795.

Amended rules in Regulation 6, 1800.

Re-enacted for ceded provinces in Regulation 40, 1803, and extended to conquered provinces and

* The amount collected, on account of stamp duties, in 1815-16, was as follows.

	Gross receipts.	*Charges.*	*Net receipts.*
Lower provinces,.....	9,77,893	2,27,293	7,50,599
Upper provinces,.....	2,68,238	77,290	1,90,947
Total Sicca Rupees.....	12,46,131	3,04,583	9,41,546

† See COLEBROOKE's Digest, vol. 3, pages 354, 497, and 506.

and

and Bundlecund by Section 26, of Regulation 8, 1805. With a view to the improvement of the public resources, by means of a duty payable on spirits manufactured at distilleries constructed and worked according to the European manner, distinct rules for levying a duty on spirits so manufactured in the provinces of Bengal, Behar, Orissa, and Benares, were likewise enacted by Regulation 2, 1802; and with the exceptions hereafter noticed, these rules are still in force. But on the 21st August 1813, Regulation 10, of that year, was enacted, *for reducing to one regulation, with alterations and amendments, the regulations in force respecting the manufacture and sale of spirituous liquors, intoxicating drugs, taury, and putchwy.**

Bundlecund by Section 26, Regulation 8, 1805.

Distinct rules for duty on spirits manufactured after the European manner established by Regulation 2, 1802.

Still partly in force.

But all other former rules concerning spirituous and fermented liquors, and intoxicating drugs, rescinded; and re-enacted, with amendments, in Regulation 10, 1813.

The preamble to this Regulation states it to have been "deemed advisable, with a view to the more effectual prevention of the unauthorized manufacture and sale of spirituous liquors, distilled according to the country process, that distilleries should be established at, or near to, each of the cities, or towns, at which the collectors of the land revenue reside; and eventually at other places; to be conducted under the immediate control of the collectors; or other officers invested with the charge of the Abkarry mohaul." It is also declared necessary "to provide for the collection of the established duties, on spirituous liquors distilled according to the European process, at places situated at a distance from Calcutta;" and that it will "tend to the public convenience, to reduce the whole of the regulations at present in force, with respect to that branch of the public revenue, and respecting likewise the duties on intoxicating drugs, taury, and putchwy, to one regulation; with alterations and amendments." The following rules were accordingly passed, "to be in force from the commencement of the en-

Preamble to Regulation 10, 1813.

* *Taury*, or *taree*, is the well known juice of the *Tar*, or Palm tree. The fermented liquor sold under the same name is also extracted from the *Khujoor*, or date tree; particularly in Bengal; and in some places, especially in the Southern parts of India, from the *Nariyul* or cocoanut tree. *Puchwy*, or *Puchoo,ee*, is composed of boiled rice, mixed with various drugs; and prepared, by a fermenting process, for intoxication.

suing Fussily, Willaity, and Bengal years, in the different districts in which those eras are respectively current." §. 2. "Regulations 34, and 51, of 1793; Regulation 1, of 1794; Regulation 47, of 1795; Section 4, Regulation 7, of 1797; Regulation 6, of 1800; Sections 22, 23, 24, and 25, of Regulation 2, of 1802; Regulation 40, of 1803; Section 26, Regulation 8, of 1805; Regulation 20, of 1806; Regulations 1, and 3, of 1808; Regulation 5, of 1811; and Regulation 13, of 1812; are hereby rescinded." §. 3. "*First.* In or near every city and town, at which a collector or assistant collector (as at Chittra and Bancoorah) of the land revenue is or may be stationed, a sufficient spot of ground shall be enclosed, either by a wall or other fence, according as the Board of Revenue or Board of Commissioners may direct; to be denominated the sudder distillery of the district, in which it may be established. *Second.* No stills shall be constructed, kept, or worked, within four coss of any of the distilleries above described, or of the boundary of the city or town in or near which they may be established, except within the circumference of the said distilleries or enclosures; and no person shall be permitted to introduce, within those limits, spirits manufactured at any other place. *Third.* The rate of duty, to be levied on the produce of the abovementioned distilleries respectively, shall be fixed by the Board of Revenue and Board of Commissioners, according as they may be established within the districts subject to the authority of those boards, at or before the commencement of each current Bengal, Fussily, and Willaity year. *Fourth.* The duty shall be paid agreeably to the rate per gallon, which may be established under the preceding clause in the several districts respectively, by the vender or other person by whom it may be removed from the distillery; and each gallon shall weigh 304 sicca weight. *Fifth.* No liquor shall be allowed to be removed from any of the said distilleries, but under a pass from the collector or assistant collector." §. 4. "Each sudder distillery shall be placed under the immediate charge of a native superintendent, who shall be denominated darogah of the sudder distillery of the district in

Section 2. Regulations rescinded.

Section 3. A sufficient spot of ground to be enclosed in or near every town where a collector or assistant collector is stationed, to be denominated the sudder distillery of the district.

Distance within which no stills may be constructed.

How the rate of duty is to be fixed on the produce of the distilleries.

By whom the duty shall be paid, and what each gallon shall weigh.

No liquor to be removed from the distilleries, except under a pass from the collector or assistant collector.

Section 4. Designation of the person under whom the sud-

in which it may be established; who shall keep an account of the quantity and strength of the spirits manufactured in the distillery; and who shall be responsible to the collector or assistant collector, that no liquor be removed from the distillery without a regular pass." §. 5. "On granting licenses agreeably to the form (No. 1.)* annexed to this regulation for the sale of spirits manufactured in a sudder distillery, the collector or assistant collector shall adjust with the venders the number of gallons which they shall respectively receive each day from the distillery, and the duty on the quantity so fixed, according to the rate previously settled by the Board of Revenue or Board of Commissioners under Clause Third, Section 3, of the present regulation; and monthly passes shall be issued to the venders accordingly." §. 6.

den distillery shall be placed, and what accounts he is to keep.

Section 5. The collector or assistant collector to adjust with the venders the number of gallons which they may respectively receive each day from the distillery, and the duty on the quantity so fixed.

Section 6. What kind of

* FORM OF LICENCE No. 1 to be granted to venders established at places situated within the limits prescribed for sudder distilleries.

Licence No. ——— for the sale of spirits at ——— during the year ——— F. S. or B. S.

"I A. B. collector of ——— do hereby, under the following conditions, authorize C. D. to open a shop for the retail of spirits at ———:

1st. All spirits sold at the said shop shall be manufactured within the sudder distillery at ———

2d. The said C. D. shall pay to Government a daily tax of ———, and shall be entitled to pass from the sudder distillery ——— gallons of spirits per diem, during the year ——— B. S. or F. S.

3d. The said C D. shall be entitled to pass from the sudder distillery such further quantities of spirits as he may require for consumption in his shop upon payment of a duty of ——— per gallon.

4th. A regular pass shall be granted by the collector on the first day of every month to the said C. D. to enable him to pass the prescribed quantity of spirits from the distillery.

5th. Extra passes shall be granted to C. D. on application, the duty being previously paid.

6th. Any attempt to vend spirits manufactured at any other place than the sudder distillery above described, or to remove spirits from the sudder distillery without payment of the established duty, shall subject the said C. D. to the forfeiture of this licence; and to the penalties prescribed by Regulation 10, 1813, to be inflicted on unlicenced venders.

Registered
No. ——— of ———

Given under my hand and Seal,
this ——— day of ——— 181

A. B.
Collector."

"A

pass to be granted to each licensed vender every month.

"A pass prepared agreeably to the form (No. 2)* annexed to this regulation, shall be granted every month to each licensed vender; specifying the name of the vender, the number and situation of his shop, and the quantity of spirits to be passed daily; and the darogah of the distillery shall certify daily, on the back of each pass, the quantity of spirits issued from the distillery, and likewise the hour at which the liquor may have been removed."

Section 7. Extra passes to be granted for any additional quantity of spirits obtained from a sudder distillery.

§. 7. "Persons licensed to retail spirits, being the produce of a sudder distillery, who may be desirous of obtaining from such distillery a quantity of spirits exceeding the number of gallons specified in their monthly passes, shall, upon payment of the established rate of duty on such additional quantity, be furnished by the collector or assistant collector with an extra pass, to be prepared agreeably to the form (No. 3.)† annexed to this regulation."

Section 8. No spirits to be removed from any sudder distillery, the strength of which may exceed twenty-five per cent below London proof.

§. 8. "It is to be clearly understood, that no spirits shall be removed from any sudder distillery, the strength of which may exceed twenty-five per cent below London proof. If the process observed in

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* FORM OF PASS. No. 2.

Bowannypore shop } Murkund Saha.

Pass ——— gallons of spirits per diem, from the 1st to 31st of ——— 181

A. B.
Collector.

L. S.

Shop No. ——— Pass No. ———

To be signed by the serishtadar or head officer of the Abkarry mohaul. On the back of this pass, the darogah of the sudder distillery shall each day attest the issue of the quantity of spirits specified, and the hour at which it is removed.

† "EXTRA PASS. No. 3.

No. ———

Bowannypore shop } Murkund Saha, No. ———

Received Sicca Rupees ———

Pass ——— gallons of spirits, this day, the ——— of ——— 181

A. B.
Collector."

L. S.

To be sig ed or sealed by the head officer of the Abkarry department.

from

the manufacture shall produce spirits exceeding that standard, they shall be reduced to that strength previously to their removal from the distillery." §. 9. "All persons who may be discovered in any attempts to evade the rules prescribed by this regulation for the management of sudder distilleries, either by the establishment of stills within the prohibited limits; by the introduction of spirits manufactured at other places; or by attempts to convey spirits from the distillery, without a proper pass from the collector or assistant collector, or without the attestation of the superintendent; or exceeding the quantity specified in any such pass; shall on conviction be subject to the penalties herein after prescribed by Section 22, of this Regulation." §. 10. "A register of all passes, which may be issued, shall be kept by the collector or assistant collector; and the passes shall be returned by the venders at the expiration of the period for which they have been granted, and when they are no longer in force." §. 11. "For the convenience of venders residing in large cities and principal towns, the Board of Revenue and Board of Commissioners are hereby authorized to sanction the establishment of two distilleries, but not more, for the supply of each of such cities and towns. In cases likewise, in which those Boards may be of opinion that distilleries can be advantageously and conveniently established at any of the other large towns, in the interior of the different districts, on the footing of the sudder distilleries, they are hereby empowered to have recourse to that measure; being careful, however, not to sanction them except in cases in which they can be vigilantly controlled by the collectors or assistant collectors." §. 12. "It shall be the duty of the Board of Revenue and Board of Commissioners to furnish the collectors or assistant collectors, subject to their authority respectively, with such instructions as they may deem best calculated for the internal control of the distilleries, especially with the view of preventing the admixture of noxious drugs with the spirits; of encouraging the introduction of an improved method of distillation, and the use of the best materials; and of preventing the illicit remo-

Section 9. Penalties on persons who may be discovered in any attempts to evade the rules prescribed by this regulation.

Section 10. Register of passes to be kept by the collector or assistant collector, and the venders to return their passes when no longer in force.

Section 11. In large cities and principal towns, the Board of Revenue, and Board of Commissioners, authorized to sanction the establishment of two distilleries, but not more. The Board of Revenue and Board of Commissioners may likewise authorize the establishment of distilleries, at any of the other large towns in the interior of the different districts, on the footing of the sudder distilleries.

Section 12. The Boards to furnish the collectors with instructions for the internal control of the distilleries.

Section 13. A separate distillery to be established in the vicinity of Calcutta for the supply of the city itself, in addition to the distillery or distilleries which may be established under the control of the collector of the 24 Pergunnahs.

val of spirits." § 13. *First.* "In addition to the distillery or distilleries, which may be established under the control of the collector of the 24 Pergunnahs for the supply of the suburbs of Calcutta, and of the villages and places lying within four coss of the city, another distillery shall be established in the vicinity of Calcutta for the supply of the city itself, to be conducted on the principles established for the management of the sudder distilleries, so far as those principles may be consistent with the provisions of the legislature for regulating the sale of spirits within the city." *Second.* "Spirits manufactured at the distillery last mentioned, shall on no account be sold or consumed in any place except in the city of Calcutta, and under licenses obtained for that purpose from His Majesty's justices of the peace. Any person infringing or attempting to infringe this rule, shall be subject to the penalties established for the illicit manufacture and sale of spirituous liquors by Section 22, of this regulation." *Third.* "It shall be the duty of the collector of the 24 Pergunnahs to concert with the magistrates of Calcutta the best means of preventing the illicit sale of spirits manufactured at the distillery established for the supply of the city in any place beyond its limits." §. 14. *First.* "The following rules shall be observed with respect to the manufacture and sale of spirituous liquors at places situated more than four coss from the sudder distilleries; or distilleries established on that principle in the interior of the different zillahs." *Second.* "The rate of duty shall be fixed by the collectors, with the sanction of the Board of Revenue, or Board of Commissioners, as the case may be, at or before the commencement of every Bengal, Fussily, or Willaity year, in the several Pergunnahs, or other known divisions of the different districts." *Third.* "It shall be the duty of the Board of Revenue and Board of Commissioners to cause the highest rates of duty to be fixed, which can be introduced without giving rise to the illicit manufacture and sale of spirits." *Fourth.* "Persons proposing to take out licenses under this regulation shall uniformly specify, in their applications for such licenses,

Spirits manufactured at the separate distillery, in the vicinity of Calcutta, shall on no account be sold or consumed in any other place except in the city of Calcutta. Penalties for infringing this rule.

The collector of the 24 Pergunnahs to concert with the magistrates of Calcutta the best means of preventing the illicit sale of spirits manufactured for the supply of the city, in any place beyond its limits.

Section 14. Rules to be observed respecting the manufacture and sale of spirituous liquors at places situated more than four coss from the sudder distilleries. The rate of duty how to be fixed and when.

The Board of Revenue and Board of Commissioners to cause the highest rates of duty to be fixed.

Applications for licenses shall specify whether the manufacture and

licenses, whether it is intended that the manufacture and sale should be conducted at one and the same place, or at different places; and licenses shall be granted, in conformity to the forms (Nos. 4* and 5†) annexed to this regulation, accordingly"

sale should be conducted at one and the same place, or at different places.

* "FORM OF LICENCE No. 4, to be granted to persons authorized to manufacture and sell spirits, at one and the same place, beyond the boundaries prescribed for the sudder distilleries.

License No. ——— *for the manufacture and sale of spirits at* ——— *during the year* ——— *B. S. or F. S.*

"Whereas by the authority of the Governor General in Council, I A. B. collector of the zillah of ——— authorize C. D. to work a still for the manufacture of spirituous liquors at ——— pergunnah ——— during the year ——— F. S. or B. S. it is required of the said C. D. as a condition of his licence remaining in force, that he duly and faithfully perform, and abide by, the following articles:

1st. That he pay to government a daily tax of ——— sicca rupees.

2d. That he use only one still; and that such still shall not contain more than fifty seers of eighty sicca weight.

3d. That he confine the vend of the produce of his still to one shop, to be attached to the building in which the stills is erected.

4th. That he shall not allow any quantity of liquor exceeding one seer (or quart) to be removed from his shop under any pretence whatever.

5th. That he shall not harbour robbers, thieves, or riotous persons; but, on the contrary, give information to the nearest magistrate, or police officer, of any suspected persons who may resort to his shop.

6th. That he shall not receive any goods or wearing apparel, or property, in barter for liquor.

7th. That he shall not open his shop before sun-rise; nor keep it open after sunset; and that he shall not harbour any persons in it during the night.

8th. That he shall have constantly fixed up, on the outer door of his shop, a sign or board, bearing an inscription in the current language of the country to the following effect:

"LICENSED VENDER OF SPIRITS."

"Upon any breach of the above conditions, this licence shall be held to be forfeited. All officers of Government are hereby prohibited from imposing or exacting any tax or cess under any pretence whatever on the said C. D on account of the said still during the aforesaid period, beyond the tax required to be levied from him by the regulations; and they are also prohibited from molesting or interrupting him in the prosecution of his profession while he conforms to the above special provisions, and to all other regulations that relate to him.

Registered ———
No. ——— of ———

Given under my hand and seal,
this ——— day of ——— 181
A. B.
Collector."

† FORM OF LICENCE No. 5, to be granted to persons authorized to manufacture at one place, and to retail at another; both places being situated beyond the boundaries prescribed for the sudder distilleries.

License

LIBRARY

A caboolyet to be executed by persons obtaining licenses.

And the duty to be levied every ten or twenty days, or at the close of each month.

ingly." *Fifth.* "A caboolyet shall be executed by persons obtaining licences for the manufacture and sale of spirituous liquors under this section, in strict conformity to the tenor of such licences." *Sixth.* "The rate of duty having been fixed under clause second, and the licenses and caboolyets having been interchanged between the collectors and the distillers, the duty shall be levied at the expiration of every ten or twenty days, or

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Licence No. ——— for the manufacture of spirits at ——— during the year ——— B. S. or F. S. and for the retail at ——— for the same period.

"Whereas by the authority of the Governor General in Council, I, A. B. collector of the zillah of ———, authorize C. D. to work a still for the manufacture of spirituous liquors at ——— pergunnah ———, and to establish a shop for retailing the produce thereof at ——— for the year ——— B. S. or F. S. It is required of the said C. D. as a condition of his licence remaining in force, that he duly and faithfully perform, and abide by, the following articles:

1st. That he pay to Government a daily tax of ——— sicca rupees.

2d. That he use only one still to be worked at ———, and that such still shall not contain more than fifty seers of eighty sicca weight.

3d. That he confine the vend of the produce of his still to one shop in the town or village of ———, the particular situation of which will be prescribed to him; and that he shall not permit any spirits, which may be manufactured by him, to be sold or disposed of at any other place, without an express licence for that purpose.

4th. That he shall not allow any quantity of liquor exceeding one seer (or quart) to be removed from his shop under any pretence whatever.

5th. That he shall not harbour robbers, thieves, or riotous persons, but on the contrary give information to the nearest magistrate, or police officer, of any suspected persons who may resort to his shop.

6th. That he shall not receive any goods, or wearing apparel, or property, in barter for liquor.

7th. That he shall not open his shop before sun-rise, nor keep it open after sun-set; and that he shall not harbour any persons in it during the night.

8th. That he shall have constantly fixed up, on the outer door of his shop, a sign or board, bearing an inscription in the current language of the country, to the following effect.

"LICENSED VENDER OF SPIRITS."

Upon any breach of the above conditions, this licence shall be held to be forfeited. All officers of Government are hereby prohibited from imposing or exacting any tax or cess, under any pretence whatever, on the said C. D. on account of the said still, during the aforesaid period, beyond the tax required to be levied from him by the regulations; and they are also prohibited from molesting or interrupting him in the prosecution, of his profession while he conforms to the above special provisions, and to all other regulations that relate to him.

Registered
No ——— of ———

Given under my hand and seal,
this ——— day of ——— 181
A. B.
Collector."

at

at the close of each month, as may appear to the collectors most convenient, subject of course to any instructions which they may receive on this point, from time to time, from the Board of Revenue, and Board of Commissioners. *Seventh.* Any license, which may be issued under these rules, shall only be considered to authorize the establishment of one still. If the distiller shall be desirous of keeping and working more than one still, he shall take out a separate license or licenses, conformably to the number of stills, and shall pay increased duty accordingly. *Eighth.* It will be the duty of the collectors to adopt the necessary means to prevent the introduction of spirits, manufactured under this section, into any place situated within four coss of the sudder distilleries; or of the city or town, at or near which they may be established; or of any distillery established on that principle in the interior of any of the districts." §. 15. "*First.* Taury shall not be sold, whether in a fermented or unfermented state, except under licenses from a collector, assistant collector, or other officer in charge of the abkarry mohaul, for which the venders shall pay a certain daily tax to Government. *Second.* It shall be the duty of the Board of Revenue and Board of Commissioners to determine, at or before the commencement of each Bengal, Fussily, or Willaity year, the rate of duty which shall be established on the sale of taury in the different towns and villages in the several districts, subject to their authority respectively."* §. 16. *First.* "Putchwy shall not be

Separate licenses to be taken out by the distiller, when he may be desirous of keeping and working more than one still, and to pay the increased duty accordingly.

The collectors to prevent the introduction of spirits manufactured under this section, into any place situated within four coss of the sudder distilleries.

Section 15. Taury not to be sold except under licenses from a collector or assistant collector, or other officer in charge of the abkarry mohaul, for which the venders are to pay a daily tax. The Board of Revenue and Board of Commissioners to determine the rate of duty to be established on the sale of taury.

Section 16. Putchwy not

* The following form of licence is prescribed, to be granted to persons authorized to vend taury, putchwy, and intoxicating drugs.

"*Licence No.* ——— *for the sale of (drugs, taury, or putchwy) at* ——— *during the year* ——— *B. S. or F. S.*

Whereas by the authority of the Governor General in Council, I, A. B. collector of the zillah of ———, authorize C. D. to open a shop for the sale of (drugs, taury or putchwy) in the city (town or village) of ——— in ——— for the year ——— B. S. or F. S. It is required of him, as a condition of this license remaining in force, that he duly and faithfully perform and abide by the following articles:

1st. That he pay to Government a daily tax of ——— sicca rupees.

2dly. That he confine his sale of (taury, drugs or putchwy,) to the shop for which his licence is granted; and on no account sell any (drugs, taury or putchwy) without the limits of the above city, (town or village); or establish a second shop within such limits without taking out another licence for the same.

to be sold except under licences, for which the venders are to pay a daily tax. The Board of Revenue and Board of Commissioners to determine the rate of duty to be established on the sale of putchwy.

be sold except under licenses from a collector, assistant collector, or other officer in charge of the abkarry mohaul; for which the venders shall pay a certain daily tax to Government. *Second*, It shall be the duty of the Board of Revenue and Board of Commissioners to determine, at or before the commencement of each Bengal, Fussily, and Willaity year, the rate of duty which shall be established on the said article, in the different towns and villages of the several districts subject to their authority respectively."

Section 17. Intoxicating drugs (including opium) not to be sold except under licenses, for which the venders are to pay a daily tax. The Board of Revenue and Board of Commissioners to determine the rate of duty to be established on the sale of intoxicating drugs.

§. 17. "*First*. Intoxicating drugs, (including opium) whether in a dry state or infused in water or any other fluid, shall not be sold, except under licenses from a collector, assistant collector, or other officer in charge of the abkarry mohaul; for which the venders shall pay a certain daily tax to Government. *Second*. It shall be the duty of the Board of Revenue and Board of Commissioners to determine, at or before the commencement of each Bengal, Fussily, and Willaity year, the rate of duty which shall be established on the sale of intoxicating drugs, in the different towns and villages of the several districts subject to their authority res-

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3dly. That he prevent gaming, and disorder, within his shop.

4thly. That he do not harbour thieves or riotous persons; but on the contrary, give information to the nearest magistrate, or police officer, of any suspected persons who may resort to his shop.

5thly. That he do not receive any goods, or wearing apparel, or other property, in barter for (drugs, taury, or putchwy.)

6thly. That he do not open his shop before sun-rise, nor keep it open after sun-set; and that he do not harbour any persons in it during the night.

7thly. That he will have constantly fixed up, on the outer door of his shop, a sign or board, bearing an inscription to the following effect, in the current language of the country:

"LICENSED VENDER OF (DRUGS, TAURY, OR PUTCHWY.)

Upon any breach of the above condition, this license shall be considered forfeited. All officers of Government are hereby prohibited from imposing or exacting any tax or cess, under any pretence whatever, on the said C. D. on account of the said shop, during the aforesaid period, beyond the tax required to be levied by the regulations; and they are also prohibited from molesting or interrupting him in the prosecution of his profession, while he conforms to the above special provisions, and to all other regulations that relate to him.

Registered No. ——— of ———

Given under my hand and seal, this ——— day of ——— 181

A. B.

Collector."

pectively.

pectively. Provided however, that nothing contained in this section, shall be continued to authorize the sale of the articles, denominated *churrus*, *muddut*, or *koppah*; these articles being of a most noxious quality and highly prejudical to health."* §. 18. "*First.* For the more convenient collection of the duties on spirituous liquors, intoxicating drugs, and other articles, in places situated beyond the limits to which the operation of the sudder distilleries is to extend, officers shall be appointed by the collectors, to be denominated abkarry darogahs, for the collection of the said duties in all such places. *Second.* The local limits of the authority of the abkarry darogahs, respectively, shall be settled by the Board of Revenue and Board of Commissioners; who will recommend to Government what allowances those officers should receive. *Third.* The office of abkarry darogah may either be united with that of tehsildar, in districts in which the latter office exists; or may be vested in separate persons, according as the Board of Revenue, and Board of Commissioners, may deem most advisable. *Fourth.* It shall be competent for persons, holding the office of abkarry darogah, to apprehend, and send to the collector, any individual having an unlicensed still in his possession, or engaged in the illicit sale of spirituous liquors, taury, putchwy, or intoxicating drugs. *Fifth.* In the cases mentioned in the preceding clause, the collector shall regularly proceed, in the manner hereafter prescribed in Section 22, of the present regulation, with regard to other illicit dealers. *Sixth.* It shall be the duty of the Board of Revenue and Board of Commissioners to furnish the collectors with such detailed instructions, for the guidance of the abkarry darogahs, as they may deem best calculated to ensure a faithful discharge of the duties entrusted to the said officers." §. 19. *First.* "In cases in which it may be deemed advisable, the collectors are hereby authorized, with the sanction of the Board of Revenue or Board of Commissioners, as the case may be, to let the duties leviable

With the exception of churrus, muddut, or koppah.

Section 18. The collectors to appoint officers for the collection of the duties on spirituous liquors, and other articles, in places situated beyond the limits of the sudder distilleries to be denominated abkarry darogahs.

The limits of the authority of the abkarry darogahs to be settled by the Board of Revenue and Board of Commissioners; who will recommend the allowances they should receive.

The office of abkarry darogah may be united with that of tehsildar, or may be vested in separate persons.

The abkarry darogah competent to apprehend and send to the collector any persons having an unlicensed still, or engaged in the illicit sale of spirituous liquors and other articles.

And the collector how to proceed against illicit dealers.

The Board of Revenue and Board of Commissioners to furnish the collectors with instructions for the abkarry darogahs.

Section 19. The collectors may let the duties on the manufacture and sale of spirituous liquors, in any purgunnah or known

* The *churus* is described in HUNTER's Hindoostanee Dictionary as "the exudation of the flowers of hemp, collected with the dew; and prepared for use as an intoxicating drug." *Muddut* is mentioned in an Official Report as "a composition of opium, and paun leaves, formed into balls; and smoked like tobacco." *Koppah* is understood to be cloth steeped in an infusion of opium.

on

Division, to farm, for a period not exceeding one year. The Boards may issue an advertisement inviting proposals for the farm of the duties leviable on the manufacture and sale of spirituous liquors, and the highest offers to be accepted.

on the manufacture and sale of spirituous liquors in any pergunnah, or other known division of a district, to farm, for a period not exceeding one year. *Second.* In cases in which an arrangement of this nature may be judged advisable by either of the above mentioned Boards, an advertisement shall be issued, signifying that proposals will be received, for a certain time, for the farm of the duties leviable on the manufacture and sale of spirituous liquors; and the highest offers, provided they be accompanied with good and substantial security, shall be accepted. *Third.* Whenever the duties on spirits may be let to farm, in any pergunnah or other known division of a district, under the foregoing clauses, it shall be competent to the farmer to make his own arrangements with the manufacturers and venders within the limits of his farm; and no persons, excepting those who may be regularly authorized by the farmer, shall manufacture or sell spirits within those limits, on pain of incurring the penalties established by Section 22, of the present regulation. *Fourth.* Nothing contained however in the preceding clauses of this section shall be construed to authorize the collectors, or the abovementioned Boards, to let the duties on spirits to farm at any place included within the limits prescribed for the sudder distilleries. *Fifth.* Those Boards are likewise required to be careful that no arrangement of this sort be adopted, except in remote pergunnahs or other places where the manufacture and sale are not liable to interfere with the revenue derived from stills specially licensed by the collectors." §. 20. "*First.* By Regulation 2, 1802,* rules have been established for levying a duty on spirits manufactured at distilleries constructed and worked according to the European process, the collection of which is entrusted by the said regulation to the justices of the peace acting in and for the districts adjacent to Calcutta. It being impracticable however for the said justices to levy the duties on distilleries of that description, which are or may be established beyond those limits; it is hereby declared and provided, that no British subject shall be allowed to reside at any place beyond the

The farmer to make his own arrangements with the manufacturers and venders, within the limits of his farm, and no other persons authorized to manufacture and sell spirits within those limits. Restriction.

No arrangement of the above description to be adopted except in remote pergunnahs.

Section 20. No British subject to be allowed to reside at any place beyond the 24 Pergunnahs, and districts immediately adjacent to Calcutta, in possession or charge of any distillery constructed and worked according to the European process, unless he shall engage to pay the duties established by Regulation 2, 1802.

* Stated in the sequel.

24 Pergunnahs and districts immediately adjacent to Calcutta, in possession or charge of any distillery constructed and worked in the manner above noticed, unless he shall engage to pay the duties established by Regulation 2, 1802, through the medium of such officer as may be appointed by the Board of Revenue, or Board of Commissioners, to adjust and receive the same, and otherwise to conform to all the provisions contained in the said regulation; provided however, that nothing contained in this regulation shall be construed to invalidate or otherwise affect the contract at present subsisting between Government and the proprietor of the distillery established near Cawnpore, for the supply of rum for the army during the term of the said contract. *Second.* It shall be the duty of the Board of Revenue, and Board of Commissioners, to appoint such person as they may judge most advisable, for the adjustment and collection of the duties to be collected for any distilleries of the above description beyond the limits already stated, reporting the arrangement so made for the confirmation or revision of Government." §. 21. "A general prohibition being established by the present regulation against the unlicensed manufacture and sale of spirituous liquors, taury, putchwy, and intoxicating drugs, including opium; any person who may be convicted (in the manner herein after described) of such illicit manufacture, or sale, shall be liable to the payment of a fine, not exceeding rupees five hundred; or, in the event of the fine not being duly discharged, to imprisonment in the dewanny jail of the district, in which such conviction may take place, for a period not exceeding six months." §. 22. "*First.* All investigations, which it may be necessary to institute respecting the illicit manufacture or sale of spirituous liquors, taury, putchwy, or intoxicating drugs, including opium, shall be conducted by the collectors of the land revenue, or other public officers entrusted with the charge of the abkarry mohaul. *Second.* Whenever any charge may be preferred, or information lodged on oath, against any person for the infringement of the prohibition noticed in the preceding section, or whenever any reasonable ground of suspicion shall incidentally appear against any such person,

Proviso.

The Board of Revenue and Board of Commissioners to appoint persons for the adjustment and collection of the duties to be collected from distilleries of the above description beyond the limits above described.

Section 21. Persons, who may be convicted of the illicit manufacture and sale of spirituous liquors, taury, putchwy and intoxicating drugs, including opium, liable to fine or imprisonment.

Section 22. Investigations respecting the illicit manufacture or sale of spirituous liquors, taury, &c. to be conducted by the collectors of the land revenue.

Collectors how to proceed against persons infringing the prohibition noticed in the preceding section.

son, from proceedings which may be holden by the collector in any other case, it shall be competent for the collectors, or other officers entrusted with the charge of the abkarry mohaul, to cause the person charged with, or suspected of, the said offence, to be apprehended, in order that a regular enquiry may be made into the merits of the case. *Third.* Investigations under this section shall be commenced immediately on the arrival of the party accused or suspected at the cutcherry of the collector, and shall be prosecuted with the least possible delay. It shall be the duty of the Board of Revenue and Board of Commissioners to require such periodical reports or returns, regarding the discharge of this duty by the collectors, as may appear to those Boards best calculated to enable them to judge whether the enquiries in question are conducted with the least possible delay, and whether the parties implicaed do not suffer any inconvenience which can be avoided. *Fourth.* Any person convicted before a collector, of the offence of manufacturing or selling any of the articles specified in Clause First of this section, shall be adjudged by the collector to pay such fine, as on due consideration of the circumstances of the case may be deemed proper, not exceeding the sum specified in Section 22, or in default of payment, to be confined for a period; not exceeding the term specified in the same rule. *Fifth.* Whenever any person may be adjudged to pay a fine or to be imprisoned for the illicit sale and manufacture of spirituous liquor, or other articles, under these rules, he shall be immediately sent with a certificate to the judge of the city or zillah, stating the purport of the order passed against the person in question; and the judge shall, on those grounds, give the necessary directions for the execution of the order accordingly. *Sixth.* Persons who, after the investigation prescribed by these rules, shall not have been convicted of the offence with which they stood charged or suspected, shall be immediately released, and the expence, to which they have been actually subject on account of the enquiry, shall be paid to them by the collectors on the part of Government. Should it further appear on investigation, that the enquiry originated in malice,

Investigations to be commenced on arrival of the parties, and prosecuted with the least possible delay.

The Boards to require periodical reports from the collectors.

How fines shall be levied from persons convicted before a collector.

He shall then be sent to the judge of the city, or zillah; who will give the necessary directions for the execution of the orders.

Rules to be observed in regard to persons who may not have been convicted of the charges imputed to them.

lice, or in motives clearly vexatious and unwarranted on the side of the informant, it shall be competent for the collectors to order such informant to pay to the party aggrieved such moderate fine, not exceeding however in any case twenty rupees, as may appear reasonable; or to be confined for a period not exceeding fifteen days. Orders passed under this rule shall be enforced in the same manner as fines imposed for the illicit manufacture and vend of prohibited articles, under Clause Fifth of this Section. *Seventh.* Persons deeming themselves aggrieved by any investigation instituted under this regulation, or by the judgment passed by the collectors, or in any other respect, shall be at libery to prefer their complaint to the Board of Revenue, or Board of Commissioners, either through the medium of the collectors themselves, or by means of vakeels; and those Boards, after calling for such information as they may require from the collectors, shall confirm or modify the judgment given; or pass such other orders on the subject as may appear to them most conformable to the principles of substantial justice. *Eighth.* A moiety of any fines which may be levied, under the provisions contained in this section, shall be paid to the person or persons through whose means the illicit manufacture or sale may have been detected. *Ninth.* In cases in which it may be necessary to imprison the offender, and in which a fine cannot or may not be levied from him, a reward of ten rupees shall be paid on the part of Government to the informant or informants, in lieu of his or their share of the above mentioned fine." §. 23. "With the view of restraining the illicit manufacture and sale of spirituous liquors, the collectors, and other persons invested for the time being with the charge of the Abkarry mohaul, shall be deemed competent, in the cases herein after described, to issue search-warrants for the discovery of unlicensed stills, or the produce of such stills." §. 24. "*First.* Search-warrants, of the description of those mentioned in the preceding section, shall not be issued unless the collectors shall have strong grounds to believe, either from charges specifically preferred on oath, or from their own personal knowledge, or from information

How persons may proceed to complain, who deem themselves aggrieved by the investigation or judgment of the collectors.

Persons, through whose means the illicit manufacture and sale may be detected, shall be entitled for a moiety of the fine.

In cases in which a fine cannot be levied, the informant will be paid a reward of ten rupees.

Section 23. Collectors declared competent to issue search-warrants.

Section 24. In what cases search-warrants are to be issued.

information incidentally obtained from the proceedings holden in any other case, that spirituous liquors are illicitly manufactured, sold, or deposited, on the premises proposed to be searched. *Second.* Search-warrants shall only be executed in the day time, that is, between sun-rise and sun-set; and if possible, in the presence of two or more repectable inhabitants of the village in which the house or place proposed to be searched may be situated. *Third.* All search-warrants, which may be issued under this section, shall be addressed to the nazir, Abkarry darogah, or other officer, on the fixed establishment of the collectors. *Fourth.* It shall be the duty of the magistrates, darogahs of police, and other officers of that department, to support the officers of the collectors in the discharge of the duty, which may be delegated to them under this section: provided however, that nothing contained in these rules shall be construed to authorize the officers of the collectors to enter the zenana or apartments of the women, in houses belonging to persons of respectability and credit; that is, of all those classes whose women do not ordinarily appear in public. *Fifth.* Persons who may be detected by the means above described in the illicit manufacture of spirits, or in selling or concealing spirits so manufactured, shall be liable to the penalties established by Section 22, of the present regulation, and on judgment being formally passed by the collectors, it shall be enforced in the mode prescribed in Clause Fifth of that section." §. 25. "*First.* No spirituous liquors shall be manufactured or sold within the limits of any military cantonment, but under licenses from the collectors; nor shall any such licenses be granted by the collectors, but with the knowledge and concurrence of the commanding officers. *Second.* Whenever licenses may be granted under the preceding clause for the manufacture or sale of spirituous liquors in any of the cantonments, the distillers and venders shall be considered to be precisely on the same footing with respect to the duty payable by them, and all other questions connected with the manufacture and sale, as distillers and venders established in other places. *Third.* Should the commanding officer of a cantonment

Search-warrants to be executed in the day time.

To whom the search-warrants are to be addressed.

The magistrates and other officers of police to support the officers of the collectors.

The officers of the collectors prohibited from entering the zenana, or apartments of the women.

Penalties on persons who may be detected in the manufacture, or in selling or concealing, of spirits.

Section 25. Rules respecting sale of spirits in cantonments.

The distillers and venders in cantonments to be precisely on the same footing as the distillers and venders at other places.

How a still or shop in a canton-

tonment be of opinion, that any practical inconvenience is experienced from any stills or shops which may have been established in the said cantonment, he shall communicate his sentiments on the subject to the collector; who shall immediately order such stills or shops to be suppressed. *Fourth.* Should a commanding officer of a cantonment be of opinion that any inconvenience is experienced from any still or shop established in the vicinity of the said cantonment, he shall state his sentiments to the collector; who shall either order the still or shop in question to be suppressed; or refer the case to the Board of Revenue or Board of Commissioners, who will order the shop to be suppressed or otherwise, or to be removed to a greater distance from the cantonment, as may appear to them, on consideration of all the circumstances of the case, to be proper. *Fifth.* The collectors being authorized, under Sections 22, and 23, of the present regulation, to apprehend persons charged with the illicit sale and manufacture of spirituous liquors; and to issue search-warrants, with a view to the prevention of illicit manufacture and vend; it shall be the duty of the commanding officers of cantonments to be careful that no obstruction be given, by the people subject to their command, to the officers of the collectors, in the discharge of the said duties: provided however, that the collectors shall apply to the commanding officers for their assistance, in all cases in which no public inconvenience is likely to arise from that measure; and shall uniformly report to them the result of the search." §. 26. "Persons desirous of taking out licenses for the manufacture or sale of spirituous liquors, intoxicating drugs, including opium, taury, or putchwy, shall give the security of two responsible persons for the due performance of their engagements; provided however, that if any such manufacturer or vender shall make a deposit, either in cash or bank notes, equal to the amount of the duty payable by him for twenty days, such deposit shall be received in lieu of the security to be otherwise required." §. 27. "Licenses for the manufacture and sale of the different articles specified in the preceding section shall be issued for one year only, or supposing them not to be taken out at the

ment may be suppressed.

How a still or shop in the vicinity of a cantonment may be suppressed.

Commanding officers of cantonments to be careful that no obstructions be given by the people subject to their command to the officers of the collectors.

Collectors may apply for assistance to the commanding officers.

Section 26. Two responsible securities to be given by manufacturers or venders of spirits, &c.

Or a deposit made in lieu of the security.

Section 27. For what period the licenses to be issued.

commencement of the year, for the remainder of the Bengal, Fussily or Willaity year, so that the whole of the licenses in the different districts, in which those eras are respectively current, may cease and determine together." §. 28. "Licenses taken out for the manufacture and sale of spirituous liquors, intoxicating drugs, including opium, taury, or putchwy, shall be liable to be concelled at the discretion of the collector, or other officer invested with the charge of the abkarry mohaul, in case such manufacturer or distiller shall in any case fail to pay the duty, for which he had engaged, during a period of fifteen days; provided however, that if the collector or other officer shall have grounds to believe that such failure has arisen from unforeseen circumstances, and not in any design to defraud the public revenue, it shall be competent for him to postpone the annulment of the license during a period of fifteen days more." §. 29. "Persons licensed to manufacture or vend spirituous liquors, intoxicating drugs, taury, and putchwy, shall be at liberty to surrender their licenses, on giving fifteen days previous notice to the collector, and paying a sum equal to the tax for that period, over and above the amount payable by them in the ordinary course, and under the engagements contracted by them with the collector." §. 30. *First.* "There being reason to believe, that proprietors, farmers, and managers of lands, both paying revenue to Government, and held free of assessment, frequently authorize or connive at the establishment of shops for the illicit manufacture and vend of spirituous liquors and intoxicating drugs; it is hereby enacted, with a view to the suppression of all such illegal and unwarrantable practices, that on all occasions of that nature, it shall be the duty of the collector of the abkarry duties to institute suits, with the sanction of the Board of Revenue, or Board of Commissioners, but not otherwise, against persons so offending; and if it shall be proved to the satisfaction of the court before which any such suit may be instituted, that any proprietor, farmer, sezawul, teshildar, gomastah, serbarakar, or other manager of land, shall have authorized or connived at the establishment

Section 28. In what case licenses may be cancelled.

Provision for postponing the annulment of licenses, in certain cases.

Section 29. Licensed manufacturer and venders at liberty to surrender their licenses, on giving fifteen days previous notice to the collector, and paying a certain amount.

Section 30. Proprietors of land and others how to be proceeded for conniving at the establishment of shops for the illicit manufacture and vend of spirituous liquors, &c.

establishment of a shop for the manufacture or sale of spirituous liquors, putchwy, taury, or intoxicating drugs, whether in a dry state, or infused in water, or other fluid, the said court shall adjudge the offender to pay such a fine to government as it may deem proportioned to the offence; due consideration being had to the situation in life, and to the pecuniary circumstances, of the said offender. *Second.* Suits which may be instituted under this section shall be decided on a summary enquiry, under the provisions contained in Regulation 7, 1799." §. 31. "The collectors of the land revenue shall, in ordinary cases, be entrusted with the management of the abkarry revenue, and shall be entitled to a commission of five per cent on the net amount realized by them. The Governor General in Council however reserves to himself the power of nominating any other public officer, or deputing especially any other covenanted servant of the Honorable Company, to take charge of the abkarry collections in any district, in which that measure may appear to him to be necessary; and officers, who may be so nominated or deputed, shall be entitled to exercise all the powers, and to enjoy the emoluments, granted to collectors of the land revenue by this regulation." §. 32. "Under the foregoing provisions, the powers hitherto vested in the zillah and city magistrates, to suppress shops established for the sale of spirituous liquors, are rescinded. It is however of course to be understood, that the magistrates will be still competent to take cognizance of any disorderly conduct, breach of the peace, or other public crime or misdemeanour, committed by any of the persons to whom this regulation refers. In all cases of that nature, the magistrates are to be guided by the general rules, which have been or may be established for the apprehension and punishment of public offenders."

Suits instituted under this section to be decided on a summary inquiry.

Section 31. The abkarry revenue to be ordinarily entrusted to the collectors of the land revenue, who shall be entitled to a commission.

But power reserved to the Governor General in Council to appoint any other covenanted servant to take charge of the abkarry collections.

Section 32. In what cases the magistrates are to take cognizance of offences committed by persons to whom the present regulation refers.

In addition to the foregoing rules, contained in Regulation 10, 1813, it is provided by Section 2, Regulation 17, 1814,* that whenever

Additional rule in Regulation 17, 1814. Section 2. What proceeds to

* The preamble to this regulation states it to be "essential that the revenue authorities

be applied in the recovery of arrears due from persons manufacturing or selling spirituous liquors, &c.

whenever an arrear may fall due from any person manufacturing or selling spirituous liquors, taury, putchwy or intoxicating drugs, including opium, it shall be competent to the collector to enforce payment of such arrear from the defaulter or his surety, by the process, which is, or may be, in force for the recovery of arrears of revenue, due from farmers of land and their sureties, in the provinces subject to the superintendence of the Board of Revenue and Board of Commissioners respectively."

Rules contained in Regulation 2, 1802, which are still in force, under modifications of Regulation 10, 1813.

It remains to state the rules adverted to, in Regulation 2, 1802, *for levying a duty on spirits manufactured at distilleries constructed and worked according to the European manner;* as far as the same are still in force, under the modifications enacted in Regulation 10, 1813. By Section 2, Regulation 2, 1802, it was directed that "no person shall construct or work a distillery or distilleries after the manner in which distilleries are constructed and worked in England, without a license under the signature of three of the justices of the peace for the time being, acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta; whether the place, at which it may be intended to establish such distillery, be situated within the limits of the said twenty-four pergunnahs and the said districts adjacent to Calcutta, or otherwise,* upon pain of forfeiting all the spirits manufactured at such distillery or distilleries, together with all the stills, vessels and other moveables, appertaining to such distillery or distilleries, and also

Section 2. No persons permitted to construct or work a distillery, according to the method in which distilleries are constructed and worked in Europe, without a licence.

Penalty for breach of this rule.

thorities should possess powers for the recovery of arrears due from persons manufacturing or selling spirituous liquors, taury, putchwy, and intoxicating drugs, without having recourse to the courts of judicature." But the collectors are, of course, amenable to those courts, as in recovering arrears of the land revenue, for all acts done by them in opposition to the regulations.

* Such part of this section as relates to places beyond the limits of the 24 Pergunnahs, and districts immediately adjacent to Calcutta, is superseded by Section 20, Regulation 10, 1793, already cited at length; which has also virtually repealed a provision in Section 3, Regulation 2, 1802, declaring it "the duty of the magistrates and collectors of the several districts, in the provinces of Bengal, Behar, Benares, and Orissa, to inform the justices of the peace, acting in and for the twenty-four pergunnahs and districts adjacent to Calcutta, of any distilleries of the aforesaid description, which either are or may be established within the limits of their respective zillahs."

the

the sum of two sicca rupees for each and every gallon, each and every still in such distillery, or distilleries, is calculated to contain for each and every day on which he shall work each and every such still and stills in the said distillery, or distilleries, without such licence. Any person wishing to construct or work a distillery of the above description, is accordingly to make the necessary application for a license for that purpose to one of the said justices of the peace for the time being, acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta." §. 4. "On receipt of a license for estabishing a distillery, the proprietor shall, within ten days, make a regular entry of every warehouse, godown, and other place used for carrying on the business of the distillery, or for depositing the said spirits in, when manufactured, in a book to be kept for that purpose by the aforesaid justices of the peace, acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta; or by the officers appointed by the said justices of the peace in the manner herein after mentioned, attending upon and at such distillery; upon pain of forfeiting sicca rupees one thousand for not doing so." §. 5. "Every distiller, five days before he begins to bring in materials for manufacturing spirits, shall make entry of all stills, coppers, tuns, butts, coolers, casks, and vessels, which he shall use in each and every distillery, in a book to be kept by the gauger appointed in the manner hereinafter mentioned by the said justices of the peace for the time being, acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta, to attend at and upon such distillery and distilleries; and the same shall be duly marked by the surveyor, or in his absence, by his deputy, or the gauger to be appointed as hereinafter mentioned; and all and every person and persons, offending against this provision, shall for each offence forfeit sicca rupees five hundred; together with all stills, coppers, tuns, butts, coolers, casks, and other vessels, which he shall use without being so entered and marked; and the liquors contained therein." §. 6. "The justices of the peace for the time being, acting in and for the twenty-four

Section 4. Proprietors of distilleries, receiving such license, to make entry of every warehouse, &c. within ten days, under penalty of 1000 rupees.

Section 5. Distillers shall make entry, five days before bringing in materials for manufacturing spirits, of all stills, &c. under penalties.

Section 6. The Calcutta magistrates, and

the officers appointed by them, to have free access to such distilleries, &c.

pergunnahs and the districts adjacent to Calcutta, and the surveyor and the subordinate officers, by the said justices appointed as hereinafter mentioned, shall be at all times, by day or by night, permitted to have free ingress into all and every distillery and distilleries, and into the godowns and other places appertaining thereto; and to make such experiments as may be necessary for estimating the amount of the duties; and to inspect and measure all stills and vessels used in manufacturing the spirits; and likewise to take gauges, and to prove all spirits so manufactured; and all and every person or persons who shall hinder or obstruct him, them, or any of them therein, shall each and every of them forfeit the sum of sicca rupees one thousand for every such offence."

Penalties for obstructing the magistrates or their officers in the execution of that duty.

Section 7. Penalties for using stills of less than certain dimensions.

§. 7. "Every wash still shall contain at least two hundred gallons, and every still for distilling low wines shall contain at least one hundred gallons, and all and every person or persons who shall act contrary to this provision, and use or work any still of less dimensions than herein mentioned, shall forfeit sicca rupees one thousand for every such offence."

Section 8. Surveyor and deputy surveyor to take the following oath.

§. 8. "The surveyor and deputy surveyor shall, previously to entering on the duties of his office, respectively take the following oath, before one of the aforesaid justices of the peace:

"I, A. B. appointed surveyor (or deputy surveyor) of the European distilleries, do hereby swear that I will, without fear or affection, render true and faithful accounts of all surveys, gauges and calculations of duties, made by me for levying the duties on the produce of the said distilleries; and that I will not be concerned on my own account, either directly or indirectly, in the manufacture or sale of spirits made at any distillery of that description; and that I will not take any fee or reward, from any person, except such salary or commission as may be allowed me.

"So help me God."

Section 9. Rate of duty to be levied on all spirits so manufactured.

§. 9. "The rate of the duty on spirits, which may be manufactured at the distilleries worked according to the European process, shall be levied on the produce of each still, at the rate of six annas per gallon London proof, to be augmented or reduced in proportion

to

to the strength of the liquor." §. 10. "The duty and duties payable under Section 9, of this regulation, shall be discharged monthly, or oftener, should the justices of the peace, acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta, or any three or more of them, think proper so to direct; and paid to them, or to such person or persons as shall be appointed for that purpose, under their respective hands and seals; and all stills, coppers, and other utensils used in each and every distillery, shall be considered to be mortgaged as security for and liable to all the duties payable by the distiller or distillers, and in arrear, and owing from time to time from or by such distiller or distillers; and also to all penalties, fines, and forfeitures, imposed by this regulation; and be liable to be sold for the recovery of such arrears of tax and duties, which may be due from the said distiller or distillers; and for the recovery of such fines, penalties, and forfeitures." §. 11. "In order to adjust the duty payable on the spirits which may be manufactured, every distiller, five days before he begins to bring in materials for making wash, shall, upon pain of forfeiting the sum of sicca rupees one thousand, give notice to the justices of the peace, acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta, or to one or more of them, or to such person or persons as any three or more of the said justices may for that purpose appoint, under their respective hands and seals, of the day on which he intends to commence distilling; and such notice shall be considered to be in force for a period not less than two months. Every wash still, after the working shall have commenced, shall be presumed to be kept regularly in work for two months from the day appointed by the said notice for commencing distilling; and no person or persons who shall have begun to work any wash still, shall withdraw the entry thereof until the expiration of the said two months, unless he or they shall make it appear that some accident has happened, sufficient to justify his or their so doing in the opinion of the said justices of the peace, acting in and for the twenty-four pergunnahs and districts adjacent to Calcutta." §. 12. "Every distiller,

Section 10. How such duty is to be levied.

Section 11. How the duty is to be adjusted; and what notice distillers are to give previously to bringing in materials; and how long such notice is to be considered in force.

Section 12. What notice

Distillers are to give to the justices, &c. previously to discontinuing the working of their stills.

distiller, when he may be inclined, after the expiration of the above period, to discontinue working his stills, shall, upon pain of forfeiting sicca rupees one thousand for not doing so, give notice to the justices of the peace, acting in and for the twenty-four pergunnahs, or to one or more of them, or to such person as they may direct, four days previous to the distilling being discontinued. At the expiration of that period, the still shall be sealed up by the surveyor or deputy surveyor, or by any of the officers or persons by the said justices appointed as herein after mentioned; and the seal shall on no account be destroyed or broken or removed, except in presence of the surveyor or his deputy, or of such person as shall be by any one or more of the said justices for that purpose authorized, on due notice given by the proprietor or proprietors of the time when he or they intend again to work the still or stills in the manner directed in the preceeding section, upon pain of forfeiting the sum of sicca rupees one thousand."

Stills to be sealed up, and seal not to be removed without due notice, under penalty.

Section 13. What accounts officers appointed by the justices of the peace are to keep; and penalty for obstructing them in taking such accounts.

§. 13. "An officer appointed as hereinafter mentioned by the justices of the peace acting in and for the twenty-four pergunnahs, or by three or more of them, shall take and keep a regular account of all spirits conveyed from each and every distillery to the godowns, warehouses, and other places where such spirits are usually kept, exhibiting the quantity and strength of such spirits; and he shall transmit a regular account thereof weekly to the said justices; and all and every person and persons who shall hinder or obstruct the said officer in taking or in attempting to take the said account, shall forfeit the sum of one thousand sicca rupees for every such offence."

Section 14. No spirits to be removed from such distilleries or godowns, except to the usual places of deposit, without a pass, under penalty of forfeiture.

§. 14. "No spirits shall be conveyed from the godown, warehouse, or other place appropriated for keeping the produce of the distillery or distilleries, or from the said distillery or distilleries, unless to such godown, warehouse, or place appropriated for keeping the produce of such distillery or distilleries, and entered as aforesaid, without a pass from and under the hand and seal of one or more of the said justices; on pain of the spirits so taken away being forfeited; together with the casks, boats, horses, and other cattle employed in the transportation of it; which rule

is

is to be considered applicable to the spirits which may have been already manufactured and may be in store on the passing of this regulation; and the said spirits so forfeited may be seized by any officer appointed as hereinafter mentioned." §. 15. "Any person opposing the surveyor or other officer in the execution of the duty committed to such officer under this regulation, or otherwise infringing any of the rules contained in this regulation, shall, in addition to all other forfeitures, on proof thereof made to the satisfaction of two or more of the said justices of the peace acting in and for the twenty-four pergunnahs, forfeit his license for working any distillery or distilleries." §. 16. "Persons exporting spirits made at any of the licenced distilleries for foreign trade shall be entitled to a drawback of a moiety of the duty paid by them at the place of manufacture, that is to say, three annas per gallon, on producing a certificate from the commander of the vessel, that the spirits have been actually shipped for that purpose. The custom master is accordingly to keep a separate account of all sums paid under this rule, and to debit the said justices for the amount, transmitting to the said justices a quarterly account of the disbursements so made." §. 17. "An officer appointed, as herein after mentioned, shall attend at the custom house on the part of the said justices, to gauge and prove the spirits which may be entered at the custom house for exportation; and if the strength of such spirits shall be above or under London proof, the rate of drawback shall be augmented or reduced in proportion to the quality of the liquor. Such drawback is to be paid in conformity to a certificate to be furnished by the officer employed in the execution of the above duty, countersigned by one of the said justices of the peace." §. 18. "No spirits shall be deemed to be intended for exportation, unless the quantity shall be one thousand gallons or upwards." §. 19. "Spirits intended for exportation shall not be shipped, nor shall any drawback be paid on account of such spirits, until the vessel shall have taken on board her pilot; nor shall any spirits be shipped from any other place except the custom house. Nothing contained in this regulation shall be construed

Section 15. Penalties for opposition to, or infringing, these rules.

Section 16. Persons exporting spirits, so made, entitled to a drawback of half the duty, and how such drawback is to be adjusted in account.

Section 17. How the rate of drawback on spirits so exported is to be adjusted.

Section 18. Not less than one thousand gallons to be deemed intended for exportation.

Section 19. When and where spirits for exportation are to be shipped. Custom master to levy the usual commission.

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ed to preclude the custom master from levying the commission on the exportation of spirits, to which he and his assistant are or may be entitled by any regulation for the collection of government customs."

Section 20. Penalties for relanding spirits shipped for exportation without license.

§. 20. "Any spirits which shall be shipped for exportation, and shall afterwards be relanded without a special license, under the hand and seal of one or more of the said justices of the peace, shall be forfeited, together with the casks and vessels in which such spirits shall be contained, and the carts, boats, horses, bullocks, and other cattle employed in transporting the same."

Section 21. How the produce of forfeitures is to be divided and appropriated.

§. 21. "Whenever any spirits or other articles or things shall be forfeited under any of the rules or provisions of this regulation, the produce thereof, when sold as herein after mentioned, shall after deducting the expences attending the same, and the drawback (in cases where a drawback has been paid, which drawback shall be repaid to the custom master on account of Government) be divided as follows:

To the informer, ... two fifths.
To the officer making the seizure, ... one fifth.
To the surveyor, ... one fifth.
To his deputy. ..... one fifth.

Section 25. Such licenses not to authorize the sale of spirits manufactured at the country stills.

§. 25. "Licenses which may be issued under this regulation, for the sale of spirits made at the European distilleries, are not to be considered to entitle the persons holding such licenses to sell spirits manufactured at the Country stills; the sale of the produce of those stills being subject to the rules contained in other regulations."

Section 26. The retail of spirits within Calcutta to be subject to such rules as the justices of the peace may prescribe.

§. 26. "The retail sale of spirits within the town of Calcutta is to be subject to such rules as His Majesty's justices of the peace may prescribe, under the powers vested in them by the thirty-third of George III. Chapter 52, Section 159."* §. 27. "The

* By Section 159 of the statute referred to, it is enacted "that it shall not be lawful for any person or persons to sell any arrack or other spirituous liquors within the towns or factories of Calcutta, Madras, or Bombay respectively, without a licence for that purpose, under the hands and seals of two or more of the justices of the peace having jurisdiction; and that the powers and authorities vested, by any laws or statutes now in force in that part of Great Britain called England, in any justices of the peace, for restraining the inordinate sale of spirituous liquors, shall extend

"The justices of the peace acting in and for the twenty-four pergunnahs and the districts adjacent to Calcutta, with the exception of the superintendent general of police, shall be entitled to a commission of ten per cent on the gross amount of the duties which may be levied on the produce of the European distilleries under the present regulation, after making the necessary deduction, agreeably to the accounts of the custom master, on account of the drawback, which may be paid on that portion of the spirits which may be exported." §. 28. "The justices of the peace for the time being, acting in and for the twenty-four pergunnahs and the dis-

Section 27. The magistrates (with exception of the superintendent general of police) to draw a commission of ten per cent on the gross duties; deducting the drawback on spirits exported.

Section 28. The Calcutta magistrates authorized to ex-

extend to and be put in force against all unlicensed traders in spirits or spirituous liquors within the said towns and factories respectively by the justices having jurisdiction therein. The duties levied within the town of Calcutta, under the above legislative provision, as communicated by the active magistrate, who is understood to have the principal superintendence of this department (Mr. BLAQUIERE), are regulated as follows.—

1. Licensed retailers of rum manufactured in Bengal, but at distilleries worked according to the European process, pay a duty of 4 annas per gallon, in addition to the still duty of 6 annas per gallon, paid by the distiller, in pursuance of Section 9, Regulation 2, 1802.

2. Licensed retailers of arrack, sold within the town, pay a duty of 8 annas per gallon, with a restriction to the daily vend of 12 gallons at each shop.

3. Licensed retailers of foreign spirits, such as brandy, rum, &c. besides a duty of 3 annas per gallon, on the sale of such spirits within the town, pay a license duty of 5 rupees per diem; which however further entitles the retailer to sell Bengal rum, manufactured after the European manner.

4. Licensed retailers of toddy, or *taree*, within the town, pay a duty of 1 rupee per diem.

5. Licensed retailers of *ganja* (a preparation from the hemp plant) pay a daily tax of 2 rupees.

The amount of the duties levied by the justices of the peace for the town of Calcutta in the year 1815-16, on account of the several licenses specified, and the manufacture of rum, according to the European process, in the 24 pergunnahs, was as follows.

1. Still duty on rum,	Sicca Rupees	63.707
2. Retail duty on arrack, and other spirits,		1,54,271
3. License duty on taree,		25,387
4. Ditto on ganja,		8,312
Total of gross collections,	Sicca Rupees	2,51,677
Deduct charges and commission,		33,513
Net collections,		2,18,164

tricts

point a surveyor and other officers.

tricts adjacent to Calcutta, or any three or more of them, are hereby authorized to constitute and appoint a surveyor, and a deputy surveyor, and proper gaugers and other officers, under their hands and seals, for the purpose of carrying the several rules and provisions made in and by this regulation into full force and effect."

Section 29. Mode of proceeding in cases of suspicion that stills, &c. are fraudulently concealed, and penalty for opposing the authorized search for the same.

§. 29. "If any officer, appointed as hereinbefore mentioned, have cause to suspect that any spirits manufactured at any distillery or distilleries constructed and worked according to the European manner, or any still or stills, copper or coppers, tun or tuns, butt or butts, cooler or coolers, cask or casks, or other vessel or vessels, implement or implements, used or to be used in such distillery or distilleries, as aforesaid, worked or to be worked according to the European manner, is or are fraudulently concealed in any place or places; that then, upon oath made by such officer before one or more of the said justices of the peace for the time being, acting in and for the twenty-four pergunnahs, or acting in and for the zillah wherein such stills, coppers, tuns, butts, coolers, casks or vessels, or any of them are so suspected to be concealed, setting forth the grounds of his suspicion, it shall be lawful for such justice or justices, if he or they judge it reasonable, by special warrant under his or their hand or seal, to authorize such officer, by day or by night, to enter into such place or places, and to seize and carry away all and every such spirits, stills, coppers, tuns, butts, coolers, casks, vessels, or other implements, so fraudulently concealed; and if any person or persons hinder or obstrnct the said officer therein, he and they shall, each and every of them, for every such offence, forfeit the sum of one thousand sicca rupees."

Section 30. How officers invested with the authority of justices of the peace, or zillah magistrates, are to proceed in the condemnation and sale of spirits, stills, &c. seized as forfeited.

§. 30. "Whenever any spirits, stills, vessels, or other of the materials or things hereinbefore mentioned, shall be seized as forfeited, by any person authorized as aforesaid; all such seizures shall, in a summary way, be heard and determined by one or more of the justices of the peace, or magistrates for the time being, acting in and for the zillah in which the same shall be seized as forfeited; which justices of the peace, or magistrates respectively, shall cause the persons in whose custody such spirits, stills, vessels, or other materials or things

were

were found, to be summoned to appear before them, and upon their appearance or default, to examine into the cause of the seizure thereof; and give judgment; and upon condemnation thereof, to issue out their warrants for sale thereof; and such judgments shall be final." §. 31. "Whenever any such spirits, stills, vessels, or other materials or things hereinbefore mentioned, shall be seized as forfeited; and no person, within twenty days after, shall appear to the person or persons who made such seizure, to claim the same; then the said person or persons who seized the same may and shall, after expiration of the said twenty days, cause notice to be given in the Calcutta Gazette, or at the cutcherry of the magistrate of the zillah, in which the same shall be seized as forfeited, signifying the place where, and the day and time of the day, that the said justices of the peace, or magistrates respectively in the last section mentioned, will proceed to hear the matter of such seizure, and to the condemnation thereof. In which case the said justices of the peace, or magistrates respectively, are to proceed to examine into the cause of such seizure; and to give judgment for the condemnation of such of the said spirits, stills, vessels, or other materials or things, as upon such examination shall appear to them to be forfeited; and upon condemnation thereof to issue their re pec ive warrant or warrants, under their hands and seals, for the sale thereof; and the said judgment shall be final; and as if the owners or persons to whom the same belonged, or in whose custody the same was or were, had been summoned to attend the said justices or magistrates respectively." §. 32. "Every person who shall neglect to pay the duties, in and by this regulation set and imposed, at the respective time and times appointed, and to be appointed, as hereinbefore mentioned, shall forfeit for each and every sicca rupee of the said duty or duties the sum of one sicca rupee and one anna. The said forfeitures to be levied upon their goods and chattels, or otherwise recovered as hereafter in this regulation directed." §. 33. "All pecuniary fines, penalties, and forfeitures created or imposed by this regulation, shall be heard, adjudged, and determined by one or more of the justices of the peace, or magistrates for the time being, acting in and for the zillah in which such fines, penalties,

Section 31. In case of no person appearing within twenty days to claim spirits, &c. so seized, public notice to be given; when the matter of the seizure will be heard before the justices of the peace, or zillah magistrate; who, in default of the appearance of claimants, shall proceed to condemnation notwithstanding.

Section 32. Forfeitures for neglect of paying the duty at the prescribed times, and how such forfeitures are to be levied.

Section 33. How all pecuniary fines, penalties, &c. are to be heard, adjudged, determined, and levied.

penalties, or forfeitures shall be respectively made, incurred, or committed, whose judgment therein shall be final; and the said justices of the peace and magistrates respectively are hereby authorized and required, upon any complaint or information exhibited and brought before them, of any such forfeiture, fines, or penalties, made, incurred, or committed, contrary to this regulation, to summon the party or parties accused, and upon his or their appearance or contempt, to proceed to the examination of the matter of fact; and upon due proof made thereof, either by the voluntary confession of the party or parties, or by the oath of one or more credible witnesses (which oath they or any one or more of them have hereby power to administer) to give judgment or sentence accordingly, as in and by this regulation is directed; and to award and issue out warrants under their respective hands and seals for the levying of such forfeitures, penalties, or fines by this regulation imposed, together with the costs and charges, upon the goods and chattels of the offender and offenders; and to cause sale to be made thereof, if they shall not be redeemed within fourteen days, rendering to the party or parties, whose goods and chattels they were; the overplus, if any there be, after deducting thereout the said penalties, fines, or forfeitures, and the costs and charges. Fifteen per cent of the penalties, and fines or forfeitures, so recovered, to be applied to him or them who shall discover, inform, or sue for the same, as in this section and rule abovementioned; and the remainder thereof to the United Company of Merchants of England trading to the East Indies."*

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* In addition to the duties levied by the Justices of the Peace for the town of Calcutta, and mentioned in the preceding note, the general collections on account of the *Abkaree Mehal*, in the lower and upper provinces, from the 1st May 1815, to the 30th April 1816, were as follows:

1.	On spirits manufactured at the sudder distilleries, ... Sicca Rupees	4,36,380
2.	On the sale of spirits, beyond the precincts of the sudder distilleries, ..	16,13,040
3.	On rum, made according to the European process, ...	11,490
4.	On puchwy or puchoee, ...	67,012
5.	On taree, ...	1,68,705
6.	On drugs, exclusive of Opium, ...	2,03,632
7.	On retail sale of Opium, ...	19,730
8.	Duty advanced on Abkarry licenses, in lieu of security, ...	4,284
9.	Abkaree fines and forfeitures, ...	7,637
	Total of gross collections, ... Sicca Rupees	25,31,910
	Deduct charges and commission, ...	2,32,268
	Net collections, ... Sicca Rupees	22,99,642

SECTION

SECTION XII.

TAX ON PILGRIMS.

At what places a tax on Hindoo pilgrims is levied by the British Government.

A TAX on Hindoo pilgrims is levied by the British Government, in continuance of former usage, at the following places. 1. Gya, in the province of Benares. 2. The temple of Juggunnath in the district of Cuttack. 3. The conflux of the rivers Ganges and jumma at Allahabad.* No printed regulation has been enacted, in the prescribed form, relative to the tax levied at Gya; the duty of the collector, and a European superintendent employed under him in this department, being simply to receive a fixed rate of tax, upon licenes granted to the pilgrims, for visitingthe different places of worship and pilgrimage, in the vicinity of that town.

No printed regulation for tax levied at Gya.

But in a statement which accompanied a report from the collector of Gya, dated the 16th July 1790, the rates of duty paid by pilgrims for permission to perform their religious ceremonies, chiefly in honor of deceased ancestors, at the river Phulgo, or adjacent places of pilgrimage, were stated to vary from 6 annas to 12 rupees 11 annas 3 pie. This duty to Government is independent of donations to the *Gyawals* or priests who attend the pilgrims on their visit to Gya. In the report above-mentioned (from Mr. A. SETON, now a Member of the Government) the following information is given, under the head of *Donations of Pilgrims*. "These are voluntarily gifts, and belong solely to the Brahmins. From time immemorial, or at least ever since the city of Gya became famous for its sanctity, it has been the custom of its Brahmins, distinguished by the name of *gyawals*, to travel through all countries where the Hindoo religion prevails, in search of pilgrims, whose donations are considered as the property of the gyawal through whose means they are brought. There is no rate fixed for these donations; every pilgrim giving according to his rank, and to his re-

But rates of duty, and other information, stated in a report from the collector of Gya, in 1790.

Donations of pilgrims to the priests who attend them.

* It appears from the public accounts of 1815-16, that a small collection is also made from the pilgrims of *Seetla Debee*, at Kasheepoor, Surkurra, and Sumbhul, in the district of Moradabad; and from the pilgrims of *Soron* in Itawa. The amount received in the former district was rupees 2,592, and in the latter 3,091, in the year referred to. But I have not been able to obtain any further information relative to these collections.

ligious

ligious order; but, as the influence of the gyawals over the minds of the pilgrims is very great, their contributions have ever been a source of a considerable acquisition of wealth to this country; even in the time of the Musulman Government; the oppressive and unlimited rapacity of whose delegates, though it indeed checked and diminished, could not altogether destroy, the advantages which the city derived from the bounty or superstition of its frequenters. Since the appointment of Mr. LAW, my predecessor, to the management of the district, these donations, till then at the mercy of the aumils, have been enjoyed in peace and security by the gyawals, as the fruits of their labors; being the voluntary contributions of those, who, but for them, would probably never have visited Gya. It is upon this principle that no part thereof has, since that time, been considered as the dues of Government. As it is common for two or more gyawals to enter into a sort of partnership, or joint concern, in this profession of procuring pilgrims, disputes frequently arise about the division of the donation. Another and intricate sourse of litigation arises from different gyawals, (not in partnership) claiming, severally, the donations of the same pilgrim; each asserting that the merit of inducing him to make the pilgrimage is his. These disputes were formerly settled, or rather concluded, in a summary and most iniquitous manner, by the aumils; who never failed to begin their investigation by attaching the whole amount in dispute; and ended by appropriating to themselves a considerable portion of it. One-seventh share they did not scruple to claim avowedly, as their property. This shameful practise continued till the time of Mr. LAW; by whom it was abolished, and the parties directed to prefer their claims in the court of dewanny adawlut." The following particulars are stated in the same intelligent report, respecting *the mode of collecting the duties*, payable to Government. "When a pilgrim arrives, his gyawaul, or religious father, conducts him to the darogah, or superintending officer of the sayer collections; and explains to him the ceremonies which the pilgrim is desirous of performing; after which an order, specifying the names of the pilgrim and gyawal, as also

Mode of collecting the duties payable to Government.

also the ceremonies, is made out, under the official seal and signature of the collector, authorizing the performance of the ceremonies in question. At the time of delivering this order, the duty is paid; which varies according to the number and nature, of the rites to be performed. During the power of the Mosulman government, these ceremonies were taxed in such an arbitrary and oppressive manner, that a dread of being plundered deterred numbers from visiting Gya. As these oppressions together with their bad effects, and the means adopted to remove them, are fully detailed in a letter addressed by Mr. LAW to the late Committee of Revenue on the 18th April 1785, and as the letter is now amongst your records, permit me to take the liberty of referring you to it, that I may not swell your proceedings by needless repetition. By reverting to that document, you will be pleased to observe, that, by abolishing the oppressive, and regulating the vague, rates of duty; by preventing all vexatious interference with respect to the donations of the pilgrims, and by substituting a regular and formal, to an extra-judicial and informal, investigation of disputes amongst the Gyawals; he made every exertion that policy and humanity could suggest. Situated as I now am, it is but common justice to add, that by restoring comfort and confidence to an almost dispirited community, he had long before his departure the satisfaction of seeing that his efforts were not unsuccessful; while great and progressive increase in the amount of the sayer collections (under the circumstance of diminished rates,) evinces the sound (and with respect to pilgrims the attractive) policy of the measures he adopted." The report concludes with the following answer to a question whether any regulations had been established relative to the collection of the Gya duties. "There are no particular regulations on this subject, with which I am officially acquainted, except those above alluded to, which were established by Mr. LAW for the purpose of eradicating the abuses introduced by the uncontrolled venality of the Mosulman farmers. There are, I am informed, numberles regulations established amongst the Gyawals for the internal management

Oppressive exaction under the Mosulman Government.

abolished, and duties regulated by Mr LAW in 1785.

No other regulations established; except amongst the Gyawals for the internal management of their community.

ment of their community; but the knowledge of them, however interesting to the curious, could not, I apprehend, be of use in a political point of view. If however more minute information would be desirable, I will procure and transmit an authentic copy of their regulations."*

Reasons for regulating the collections and protecting the pilgrims from exaction, at the temple of Jugunnath, in Cuttack.

At the temple of Jugunnath, where the concourse of pilgrims at particular seasons and festivals is very considerable, and where the system of collection, under the Marhatta government, before the conquest of Cuttack, had been intricate and open to abuse, it was judged "essentially necessary that provision should be made for the protection of the pilgrims from undue exactions on the part of the officers of Government, or of the temple; and also for the preservation of order, tranquillity, and regularity, in the town of Jugunnathpooree, and its dependencies." Regulations 4, and 5, 1806, were accordingly passed for this purpose;

Regulations 4

* The regulations adverted to, which are commonly denominated the *Reet* and *Birt* of the Gyawals, have not been yet made public; though a translation, or abstract of them, could not fail of proving interesting to the curious; as well as useful to those concerned in the administration of justice. I have to add only, on the subject of the *Gya duties*, (under which denomination the tax on pilgrims at Gya is credited in the accounts) that the gross collections, from May 1815 to April 1816, amounted to Sicca Rupees 2,29,805. But from this sum the following deductions are made:

1. Charges of collection, including a commission of one per cent to the superintendent,	7,321
2. Charitable allowances, and pensions to several individuals, who have been long supported from these collections,	2,530
Donation to the native hospital, at the Presidency; fixed originally at 600 rupees per mensem; and raised by Government, in 1810, to 1000 rupees, in consequence of the extended demands upon the funds and benefits of this humane institution. Charged for 11 months,	11,000
Melikanah, or proprietary share of the Gya duties, paid to Rajah Miterjeet Sing, zemindar of purgunnahs Sanout, &c. including the town of Gya and village of Morarpore, where the duties are collected. The annual allowance authorized by Government on this account, (in the year 1804, when the Rajah's claim was investigated and allowed on proof of the sayer collections referred to having been included in his zemindarry grant) is 10 per cent on the actual net collections. But the charge in 1815-16 including some arrear of the preceding year, was, sicca rupees	26,078
Total deductions, sicca rupees	46,929
Leaving the net receipts, sicca rupees	1,82,876

and

and besides defining the rates of tax, with rules for the collection of it, provided that "the superintendence of the temple of Jugunnath and its interior economy, the conduct and management of its affairs, and the entire control over the priests, officers, and servants, attached to the idol and to the temple, shall be vested in an assembly of pundits, or learned Brahmins, who on all occasions shall be guided by the recorded rules and institutions of the temple, or by long and established usage." The rules contained in the regulations abovementioned being however "in some respects attended with difficulty and inconvenience, the Governor General in Council, with a view to afford every facility to the different classes of Hindoos, in the performance of their religious ceremonies, and for the better management of the internal affairs of the temple," rescinded the whole of the provisions made in the first instance; and substituted the following rules, which are still in force, by Regulations 4, 1809, and 11, 1810. §. 2. *First*: "The superintendence of the temple of Jugunnath, and its interior economy, the conduct and management of its affairs, and the control over the priests, officers, and servants attached to the temple, are hereby vested in the Rajah of Khoordah, who on all occasions shall be guided by the recorded rules and institutions of the temple, or by ancient and established usage." *Second*. "The Rajah of Khoordah, and his successors, shall hold the charge vested in them by the above clause, so long as they shall continue to conduct themselves with integrity, diligence and propriety, but nothing contained in this regulation shall be construed to preclude the Governor General in Council from removing the present Rajah, or any of his successors, from the superintendence of the temple, on proof of misconduct in such person, made to the satisfaction of Government." *Third*. "To enable the superintendent of the temple to perform the duty of his station with efficiency, he is hereby authorized to punish persons subject to his control, for any instance of neglect or misconduct, by imposing small fines upon them, not exceeding one month's salary, or income, or by removing the offender (if not one of the three head purchas) from his office, if the

and 5, 1806, enacted for this purpose.

Provisions contained in above regulations rescinded; and new rules established by Regulations 4, 1809, and 11, 1810.

Regulation 4, 1809. Sec. 2. The superintendence of the temple, the conduct of it's affairs, and the control over the several persons attached to it, vested in the rajah of Khoordah.

The rajah and his successors to continue in charge so long as they shall act with propriety.

The superintendent empowered to punish persons subject to his control, and to what extent.

the offence shall appear to merit that punishment. The amount of any fines imposed under this clause are to be carried to the account of Government by the suttaishuzarry purcha." §. 3. *First.* "The three dewul purchas are to be appointed by the collector of Cuttack, subject to the confirmation of Government; and they are not to be removed from their offices without the sanction of the Governor General in Council. These officers however are to execute the functions of their offices under the directions of the rajah, and they are required to obey his orders punctually." *Second.* "In the event however of any orders being issued by the rajah, inconsistent with the recorded rules and institutions of the temple, or with its ancient and established usages, it shall be the duty of the purchas to represent the circumstances of the case to the collector of the tax, for the final orders of the Governor General in Council, if it should appear on enquiry that the interposition of Government is necessary for the restoration of good order, and the prevention of disputes and irregularities." §. 4. "The third dewul purcha shall execute the duty of suttaishuzarry purcha, and it shall also be his duty to give an account to the collector of the tax, of all offerings and presents made to the idol." §. 5. "A tax shall be levied on the part of Government (as was heretofore done under the late Marhatta Government, and as has also been done under the British Government since the conquest of the province of Cuttack) on pilgrims resorting to the temple of Jugunnath. The collection of the tax shall be entrusted to an officer with the official designation of the *collector of the tax on pilgrims.* But that officer is to be subject to the authority of the collector of Cuttack. The general superintendence of the collections, and the control of the officers employed in the performance of that duty, shall be vested in the Board of Revenue at Fort William." §. 6. "The avennes for the admission of pilgrims shall be confined to two, viz. Ghaut Atturrah Nullah on the north, and Ghaut Lokenauth on the south west of the town of Jugunnath Poory." §. 7. *First.* "The pilgrims liable to the tax shall be divided into four classes, as follows:

Section 3. The three dewul purchas to be appointed by the collector, subject to the confirmation of government, but to act under the orders of the superintendent.

How they are to act in the event of any orders of the superintendent being inconsistent with the rules and usages of the temple.

Section 4. The third dewul purcha to act as suttaishuzarry purcha, and to give an account to the collector of all offerings and presents.

Section 5. A tax to be levied as heretofore on the pilgrims, the collection of which to be vested in a collector, under the authority of the collector of Cuttack, and the general superintendence of the Board of Revenue.

Section 6. The avennes for the admission of pilgrims confined to two.

Section 7. Modified by by Regulation 11, 1810. Classes of pilgrims liable to the tax.

First

First class, or laul jatries.

Second class, or nim lauls.

Third class, or bhurrungs.

Fourth class, or punj tirthees, comprehending the following descriptions of persons of low cast, who are not permitted to enter the temple:

1. Lolee or kusbee,
2. Cullal or soonree,
3. Machoowa,
4. Numo-sooder or chandal,
5. Ghooskee,
6. Gázur,
7. Baugdee,
8. Joogee or noorbauf,
9. Kahar bawry and doolia,
10. Raujbunsee,
11. Chamar,
12. Dhome,
13. Paun,
14. Teor,
15. Bhooinmalee,
16. Haddee."

Second. "The following are the rates of tax payable by the different classes:

Rates of tax payable by the different classes.

Pilgrims of the first class, coming from the north and passing the Autarrah Nullah ghaut, to pay a tax of ten rupees; and coming from the south and passing Lokenauth ghaut, six rupees.

Pilgrims of the second class, coming from the north and passing the Autarrah Nullah ghaut, to pay five rupees; and coming from the south and passing Lokenauth ghaut, three rupees.

Pilgrims of the third class, whether coming from the north or south, and passing either of the ghauts, to pay two rupees.

Pilgrims of the fourth class, passing either of the ghauts, to pay two rupees."

Third. "A pilgrim of the first class is to be allowed free access

Rules as to the time a pilgrim

of the first class is to be allowed access to the temple, and how that period may be extended.

to the temple during thirty days, and he is to be attended by a purharree or punda, at all times he may enter the temple. But if he should wish to be exempted from the attendance of those officers, by the payment of a further sum of ten rupees to the collector, and by the surrender of his pass, he shall be entitled to a purwannah, authorizing him to visit the temple, at all times when the gates are open, whether attended by a purharree or punda, or otherwise; and he shall further be allowed to perform his religious ceremonies for an unlimited time, so long as he may wish to remain in the town." *Fourth.* "A pilgrim of the second class, who may visit the temple at the time of the Ruth Jattrah, shall be allowed access to the temple during ten days. But if he should visit the temple at the time of the Dole Jattrah, or at any other period of the year, excepting at the time of the Ruth Jattrah, he is to be allowed access to the temple for a period of seven days only; and he must be at all times attended by a punda or purharree,, when visiting the temple." *Fifth.* "A pilgrim of the third class shall be allowed access to the temple at the time of the Ruth Jattrah, during five days; but at any other time he will only be allowed to visit the temple during four days, and he must be attended by a punda or purharree on all occasions." *Sixth.* "A pilgrim of the fourth class shall be allowed to perform the customary ceremonies without the temple, during sixteen days, attended by the baut peeada of the collector of the tax at Juggunnath." *Seventh.* "It shall be optional to all descriptions of persons, intitled to visit the interior of the temple, to enrol themselves under whichever class they may prefer, on payment of the prescribed rate of tax." § 8. *First.* "With a view to facilitate access to the temple and to remove all difficulties from the way of the pilgrims passing the ghauts, printed certificates shall be prepared, which shall be procurable on the payment of the fixed tax, at the offices of the Secretary to the Board of Revenue, the collectors of Cuttack and Ganjam, and at the two ghauts." *Second.* "The following are the forms of the certificates to be granted to the different pilgrims:

Rules as to the time a pilgrim of the second class is to have admission.

Rules as to the third class.

Rules as to the fourth class.

All persons allowed the option of enrolling themselves in the class they prefer.

Section 8. Printed certificates to be prepared, and whereto be procured.

FORM

FORM, No. 1.

"A. B. inhabitant of ——, in the district of ——, having this day paid into this office, the sum of Sicca Rupees ——, is entitled to pass through the —— ghaut, without further interruption, as a laul juttree, or pilgrim of the first class, to the cutcherry of the collector of tax at Juggunnath. On producing this certificate to the said collector, he is further entitled to receive a pass, and to have access to the temple during thirty days Form No. 1.

Names or designation of attendants.	Amount of tax paid by them respectively.	Period for which they are to visit the temple.

FORM, No. 2.

"A. B. inhabitant of ——, in the district of ——, having this day paid into this office the sum of sicca rupees ——, is entitled to pass through the —— ghaut, without further interruption, as a nim laul, or pilgrim of the second class, to the cutcherry of the collector of tax at Juggunnath. On producing this certificate to the said collector, he is further entitled to receive a pass, and to have access to the temple during ten days, at the time of the Ruth Jattrah, or during seven days at any other period." Form No. 2.

FORM, No. 3.

"A. B. inhabitant of ——, in the district of ——, having this day paid into this office the sum of sicca rupees two, is entitled to pass through the —— ghaut, without further interruption, as a bhurrung, or pilgrim of the third class to the cutcherry of the collector of tax of Juggunnath. On producing this certificate to the said collector, he is further entitled to receive a Form No. 3.

pass,

pass, and to have access to the temple during five days, at the time of the Ruth Jattrah, or during four days at any other time."

FORM, No. 4.

Form No. 4.

"A. B. inhabitant of ———, in the district of ———, having this day paid into this office the sum of sicca rupees two, is entitled to pass through the ——— ghaut, without further interruption, as a punj tirthee, or pilgrim of the fourth class, to the cutcherry of the collector of tax at Juggunnath. On producing this certificate to the said collector, he is further entitled to receive a pass, and to perform the customary ceremonies without the gates of the temple during sixteen days."

Rules as to the families or attendants of pilgrims.

Third. "In case a pilgrim of the first class may be desirous of visiting the temple with his family and attendants, such family and attendants, not exceeding twenty persons, will be admitted to remain in the town so long as their master does, provided they shall in the first instance pay the prescribed tax, either as bhurrungs or nimlolls; but they will not be allowed to enter into the temple for a longer period of time, than they may be respectively entitled to, in consideration of the tax paid by them: in cases therefore where a pilgrim may be desirous of having his attendants, and family, allowed to remain with him, as long as he remains himself, the tax for such persons, either as bhurrungs or nimlolls, must be paid at the time he takes out his own certificate; and the officer furnishing the certificate is to state the names, or designation of the family and attendants, the tax paid on account of each of them, and the number of days during which they will respectively be allowed to perform their religious ceremonies; and such persons shall be allowed to remain in the town as long as their master does." *Fourth.*

Certificates how to be attested and filled up.

"The certificates shall be dated and attested with the official seal and signature of the officer granting them, who shall also fill up the blank spaces with the name of the pilgrims (or if female, her designation), the place of his (or her) habitation, the rate of the tax, and in the instance of pilgrims of the two first classes, the name of the ghaut, through which they will pass." §. 9. "On the pro-

Section 9.

duction

duction of a printed certificate, signed and sealed in the manner prescribed, the pilgrim is to be allowed to pass the ghauts, and no interruption is on any account to be given to him by the darogah, or officer stationed at the ghauts." §. 10. *First.* "If it shall be established that any pilgrim, holding a certificate regularly signed and sealed by an officer entitled to grant such certificate, shall be impeded from entering the ghauts, or unnecessarily delayed at them, the darogah at the ghaut shall be liable to be fined in a sum not exceeding his salary for three months, and also to be dismissed from his office." *Second.* "In cases of slight offences, the collector of Juggunnath is empowered to levy a fine from the darogah, not exceeding his salary for one month; but if the collector should deem the offence deserving of a greater punishment, he is to report the circumstances to the Board of Revenue, who, if they think proper, are competent to impose a fine, not exceeding three months salary, and also to order the darogah to be removed from his office." *Third.* "It is to be the particular duty of the collector of Juggunnath to superintend the conduct of the darogahs at the ghauts, and to take special care that the pilgrims are not impeded, delayed, or molested in any manner." §. 11. *First.* "On the pilgrims having passed the ghauts, those of the first, second and third classes, are to apply to the collector of Juggunnath for a license of access to the temple, and it shall be the duty of the collector, on the receipt of the certificate from the pilgrims, to grant to them a license according to the following forms:—

Pilgrims to be allowed to pass the ghauts without interruption on producing their certificates.

Section 10. Darogahs impeding such pilgrims, liable to be fined and dismissed.

Darogahs how to be punished for slight offences.

The collector of Juggunnath to superintend the conduct of the darogahs.

Section 11. Licenses to be granted by the collector on the receipt of the certificates of the pilgrims.

"A. B. inhabitant of ———, in the district of ———, is entitled to perform the customary ceremonies under charge of ———, during ——— days, that is to say from the ——— of the month of ———, until the ——— day of the month of ———, and for that period you will afford to the holder hereof free access to the temple of Juggunnath. At the expiration of the period granted, you will return this license into the office of the collector of tax."

Form for the 1st, 2d, and 3d classes.

"A license of the form following will be granted by the collector of the tax, on the receipt of a certificate from a pilgrim of the fourth class, addressed to his nazir.

Form for the 4th class.

FORM OF LICENSE.

"A. B. inhabitant of ———, in the district of ———, is entitled to perform the customary ceremonies without the temple gates under charge of ———, baut* peeada, during ——— days, that is to say, from the ——— of the month of ———, to the ——— day of the month of ———, at the expiration of which period, this license shall be returned into the office of the collector of tax."

How the blank spaces are to be filled up.

Second. "The blank spaces of the licenses of access to be filled up with the name of the pilgrim, the place of habitation, the name of the punda or purharree in the first license, or of the baut peeada in the second, and the dates of the commencement and expiration of the period granted." §. 12. "As in case of sickness a pilgrim may be prevented from performing his religious ceremonies during the number of days allowed to him, it might operate as a hardship if such person were compelled to quit the town immediately after the expiration of the prescribed time. The collector of the tax, therefore, shall in such cases be competent to extend the period, for such further time as may be deemed reasonable by him. The collector however is of course to observe due caution in the exercise of this authority." §. 13. "As it is an important consideration to the pilgrims to visit the temple as soon after they shall have passed the ghauts as possible, the collector of Juggunnath shall be particularly careful to grant the licenses without delay. He is therefore required to have a sufficient number of blank licenses prepared, in order that no time may be lost in passing the pilgrims into the temple. It is further provided, that the collector shall not require the attendance at his cutcherry, of any person desiring to change his certificate for a license, particularly in the instance of females. The production and surrender of the certificate or certificates, at the collector's cutcherry, by any one person of the family, or by any other person who may be employed to take out the necessary licenses, shall be sufficient

Section 12. Rules in cases of sickness of pilgrims during the time allowed in the certificate.

Section 13. Rules for preventing delay in issuing the licenses to pilgrims surrendering their certificates.

* *Baut*, or *bât* (with the harsh Naguree *t*) signifies a road.

to

to authorize the collector to grant the necessary licenses in the names, or designations, of the persons specified in the certificates."

Section 14. Register of licenses to be kept and rules as to the return of such licenses by the pundas, &c.

§. 14. "The collector of the tax at Juggunnath shall keep a register of all licenses granted by him; and insert the dates of, and the periods for, which they may be in force, which will enable him to ascertain at all times whether any punda or purharree shall have neglected to return the license into the office as required. It shall be the duty of every punda or purharree to return the licenses of the pilgrims under his charge, on the expiration of the period for which they have been granted; in default whereof, the punda or purharree shall be subject to such fine as, on consideration of the circumstances of the case, the collector of the tax may deem necessary: the amount of the fine shall in no case exceed the amount of tax paid by the first class of pilgrims."

Section 15. Rules as to the return of licenses of the fourth class by the baut peeadas.

§. 15. "The baut peeadas shall return the licenses of the fourth class, or punj tirthees, on the date of their expiration; in default whereof, the collector of the tax shall dismiss the offender from his office, or impose a moderate fine, in no case exceeding the amount of one month's salary."

Section 16. Pilgrims may be removed when the license of access shall be retained beyond the prescribed period.

§. 16. *First.* "When any pilgrims (not being a laul jattree) shall retain his licence of access beyond the period of its expiration, and shall continue to reside in the town, the collector of the tax may cause the removal of the pilgrim in the following manner."

Mode of proceeding in such cases.

Second. "On application from the collector of the tax, it shall be the duty of the police darogah to apprehend, and expel from the town, such persons as shall be pointed out to him by the collector of the tax, or the officers acting under his direction. The darogah shall report to the magistrate the manner in which he may have complied with the application of the collector, in his monthly reports."

Section 17. Collector may in certain cases comply with applications of pilgrims for permission to remain in the town.

§. 17. "When any pilgrim of the first class, (who shall not have obtained a purwannah, authorizing him to perform his religious ceremonies for an unlimited time) shall be desirous of remaining in the town, beyond the fixed period, he shall make application to the collector for permission to remain, with his attendants; and the collector shall comply with the application, provided that no circumstances should render a compliance with it objectionable;

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jectionable; if any such circumstance should occur to the collector he is to make an immediate report of the case to the Board of Revenue, who, if they see reason, shall be competent to order the expulsion of the pilgrim from the town. But it is further declared, that such pilgrim shall not be authorized to enter the temple during the further period which may be allowed to him."

Section 18. Description of persons exempt from payment of the tax on pilgrims.

§. 18. *First.* "In conformity to long and established usage, the following descriptions of persons shall be considered to be exempt from the payment of the tax on pilgrims at Juggunnath, viz. byraghies, sonassees, dundies, burmacharies, mohunts, gosains, khomartees and nagas; persons employed in carrying the water of the Ganges to Juggunnath, and actually pouring the water over the idol at Lokenath; and persons resorting to the town of Juggunnath Pooree for trade, or any other purpose excepting on pilgrimage. A person professing himself to be a carrier of the water of the Ganges, is to be allowed to pass the Attarrah nullah ghaut; but he is to be placed under the charge of a punda or purharree, who is to attend him to Lokenath, and to see him pour the water over the idol there, before he will be admitted to perform his religious ceremonies within the temple. In the event of his not performing that ceremony, he is either to be expelled from the town, or to be subjected to the payment of the tax."

Rules as to persons professing to be carriers of the Ganges water.

Mod. by Regulation 11, 1810. Rule for exemption of persons born within the limits of the Byturnee nullah, and Ganjam river.

Second. "Persons born within the Byturnee nullah, and the Ganjam river, or who may have resided with their families for a period of ten years, within the above limits, are also to be considered exempt from the payment of the tax on pilgrims at Juggunnath, subject to the following restrictions."

Exemption restricted at particular times: viz. during the Ruth and Dole Jattrahs.

Third. "During the Ruth and Dole Jattrahs, the exemption in favor of the persons described in the preceding clause, is restricted to the residents, or persons born within ten coss of the town of Juggunnath Pooree, or from Peeply to the north, and from Manickpatam to the south. At all other times of the year, the exemption hitherto allowed in favor of the residents, as far as the Byturnee nullah, or the Ganjam river, is continued."

Rates of tax to be paid by such persons at the restricted periods.

Fourth. "During the Ruth and Dole Jattrahs, the persons living between Peeply and the

Byturnee

Byturnee nullah to the north, and between Manickpatam and the Ganjam river to the south, are to be subjected to the payment of the following rates of tax on their entering the ghauts at either of those festivals:

Laul jattries.	1 rupee.
Nim-lauls.	8 annas.
Bhurrungs.	4 annas."

Fifth. "A laul jattry of the above description is to be allowed the same privileges, as a laul jattry coming from any other part of the country, who shall have paid ten rupees." *Sixth.* "In like manner the Nim-lauls and bhurrungs are to be allowed the same privileges as persons of the same description who shall have paid a tax of five rupees, or of two rupees." *Seventh.* "It shall be optional to the residents within the limits above mentioned to enrol themselves under which ever class of pilgrims they may prefer on payment of the prescribed rate of tax, provided they be qualified to enter the interior of the temple." §. 19. "With respect to persons resorting to Jugunnath for the purpose of trade, or any other purpose but that of pilgrimage, they are to be admitted to pass the ghauts without the payment of the tax, at all times of the year, excepting for twelve days from the commencement of the Ruth Jattrah. During that time no person, excepting such as may be exempted as *kungals* (indigent) or carriers of the water of the Ganges, or on account of their residence, or religious cast, shall be admitted within the ghauts, without the payment of the tax." §. 20. "A person intending *bonâ fide* to take up his residence within the town, for the remaining period of his life, shall also be exempted from the payment of the tax, provided the collector shall be satisfied that he has not the means of paying any tax." §. 21. *First.* "All native military officers and sepoys who may be actually on duty within the limits of the Attarah nullah, and of Lokenauth Ghaut, or attached to corps or detachments marching on service through the town, are hereby exempted from the payment of the tax; but in order to their gaining admittance into the temple, it is necessary that they should produce to the collector of the tax an authority to pass, from the commanding officer at the station, or from

Such laul jattries to be entitled to the same privileges as others paying the full tax.
Such nimlauls or bhurrungs allowed the same privileges as others of similar descriptions.
Such persons may enrol themselves in what class they prefer if duly qualified.

Section 19. Persons resorting to Jugunnath for trade &c. admissible without the payment of tax, except at a certain period.

Section 20. Persons taking up their fixed residence in the town exempted from payment of the tax.
Regulation 11, 1810. §. 2. Native Military officers and sepoys in certain cases, exempted from paying the tax, and under what restrictions.

from his adjutant, notifying that they have obtained leave to enter the town for the purpose of performing their religious ceremonies. On the production of such authority or pass, the collector of the tax shall give immediate orders for their admittance into the temple." *Second.* "The servants of European officers on duty at Jugunnath, actually residing with their masters within the Attarah nullah, shall also be exempted from the payment of any tax." *Third.* "All persons, including native civil and military officers and sepoys, not coming within the description of persons exempted by the foregoing rules, are hereby declared subject to the payment of the tax, in common with all other Hindoos." *Fourth.* "In the event of the march of troops on service through the town of Jugunnath-poree, their passage must necessarily be facilitated; but no detachment or body of troops shall be permitted to halt within the town of Jugunnath-poree. The commanding officer shall be required to furnish the collector of the tax with a list containing the names of those native officers, or sepoys, who may be desirous of visiting the temple. The collector shall issue the necessary instructions for the admission of all such native officers and sepoys into the town, for the purpose of making the requisite application for licenses of access; which shall be granted under the foregoing rules, by the collector, on the receipt of the prescribed tax." §. 22. "Pilgrims in an actual state of poverty, or kungals, on declaring, under such form or ceremony as shall be prescribed by the native officers entrusted with the management of the temple, that they are not possessed of two rupees, and are unable to contribute the prescribed tax, shall be entitled to licenses of access to the temple under the charge of a punda or purharree, during three days. On the following day, the punda or purharree shall return the licenses to the office of the collector of the tax, in the manner and under the penalty for default prescribed by Section 14." §. 23. "The collector of the tax on pilgrims at Jugunnath is requred, at all times, to give every attention to the religious opinions of the Hindoos; and to the particular institutions of the temple of Jugunnath; which may be consistent with

Section 3. The servants of European officers on duty at Jugunnath also exempted.

Regulation 4, 1809. §. 21. Clause First. All other persons to pay the tax.

Clause Second. Rules as to troops marching through the town.

Reg. 4. 1809. Section 22. Rules as to pilgrims in a state of poverty, or kungals.

Section 23. Collector to pay attention to the religious opinions of the Hindoos.

with the general regulations, and with the maintenance of peace and good order of the temple, and its vicinity; and he shall on no account suffer his peons or ministerial officers to enter the precincts of the temple." *

The following rules are enacted, by Regulation 18, 1810, for the collection of duties on pilgrims at Allahabad, and for the pre-

Rules enacted by Regulation 18, 1810, rel-

* The gross collections on account of the tax on Pilgrims at the temple of Jugunnath in the year 1815-16, (including 72 rupees credited as *miscellaneous receipts*) amounted to

Sicca Rupees		53,725
To which must be added collections from lands assigned as an endowment for expenses of the temple,		21,818
Fixed Assessment on purgunnah Khoder,		5,000
Sales of consecrated food at the temple,		5,484
Total of gross receipts, Sa. Rs.		86,027
DEDUCT charges, under the following usual heads, viz.		
Establishment and contingencies,	17,143	
Expenses of the temple,	56,372	
Amount of cloth issued from the Import Warehouse,	1,365	
		74,880
Net Collections. Sa. Rs.		11,147

The net receipts of the preceding year 1814-15, amounted to Sa. Rs. 1,35,667; and the number of taxed pilgrims who were assembled, from different parts of India, at the *Asnan Ruth Jatra*, in May and June 1814, is stated to have been 77,323, exclusive of those who were exempted from the payment of duties; whereas the number assembled at the same festival, held in June and July 1815, who paid the established duty, was 5444 only. The difference is partly ascribed to the lateness of the season at which the principal festival took place in the latter year, and the difficulty of travelling by land, in Cuttack and the adjacent districts, after the setting in of the rains. But the unusually large collection, in 1814, appears to have been chiefly owing to an uncommon assemblage of pilgrims from Bengal and the Northern provinces, which is stated to take place once in twelve years.

It is proper to add, that the Court of Directors (in their revenue general letter dated the 28th October 1814), having intimated that they "do not consider the tax on pilgrims as a source of revenue; but merely as a fund for keeping the temple in repair;" the Vice President in Council, adverting to the probability of the net receipts exceeding the amount required for the repairs of that edifice; and judging the surplus to be properly applicable to the execution or repair of any other work connected with it; whilst at the same time such an application would be highly satisfactory to the Hindoos in general; directed (on the 24th June 1815) that the surplus collection, on account of the tax on pilgrims at the temple of Jugunnath, should be applied (subject to the future orders of the Honorable Court) as follows.—1. To the repairs of the temple and other local purposes; 2dly, to the completion and repair of a public road, from the vicinity of Calcutta to Jugunnath-poree, which was commenced on a donation for this purpose made by the late Rajah Sookmoy Roy; 3dly, To any other purpose connected with the temple of Jugunnath.

vention

pecting duties on pilgrims at Allahabad.

Section 2. Rates of duty on pilgrims at Allahabad.

vention of abuses in such collections." §. 2. *First.* "The duties hitherto paid by pilgrims, resorting to the conflux of the rivers Ganges and Jumna at Allahabad, shall continue to be levied at the following rates:—

On every pilgrim on foot—one rupee.

On every pilgrim with a horse, or palanquin, or carriage of any description—two rupees.

On every pilgrim with a camel—three rupees.

On every pilgrim with an elephant—twenty rupees.

All other duties, not authorized by this regulation, strictly prohibited.

Second. "All other duties, fees, or gratuities at the ghaut, within the fort, or at any other place, whether demanded in the name of Government, or for the benefit of individuals, are hereby strictly prohibited."

Section 3. The pilgrims to be furnished with licenses.

§. 3. "Every pilgrim, on application to the collector of the land revenue at Allahabad, shall be furnished with a license, entitling him to perform the usual religious ceremonies; and no person shall be admitted to the performance of such ceremonies until he shall have furnished himself with such license."

Section 4. Exempted classes to be furnished with a maafee chittee.

§. 4. "The exemption from duty, hitherto allowed to the inhabitants of the town of Allahabad and of its suburbs, and to the Hindoos in the Honorable Company's army, is hereby confirmed. But with a view to obviate the abuses to which this exemption is liable, every such person shall be furnished with a license of exemption, or *maafee chittee*, on application to the collector; and shall not be entitled to admission to the performance of the religious ceremonies, until he shall have furnished himself with such *maafee chittee*."

Section 5. The hujam to be registered, and to enter into penal obligations.

§ 5. "No duty or tax of any kind shall be imposed upon the shaving barbers, or *hujams*, attending at the conflux of the two rivers; but they shall be required to register their names at the collector's office; and execute an obligation to the collector, binding themselves, under a penalty of fifty rupees in every instance of contravention, not to perform that part of the ceremonies which rests with them, to any person who shall not have furnished himself with the prescribed license, or maafee chittee."

Section 6. The pilgrims to be admitted through esta-

§. 6. "The access to the place of ablution, at the conflux of the two rivers, shall be restricted to a certain number of gates

or

or avenues to be fixed upon in a barrier, which shall be annually established on the subsiding of the rivers from the palisades of the fort of Allahabad to the bank of the river; and no person shall be admitted through such barrier except on the production of the prescribed licence, or maafee chittee." §. 7. "Such numbers and descriptions of native officers, as may be approved of by the Board of Commissioners, shall be stationed by the collector at the above mentioned barrier; whose duty it should be not to admit within the barrier any person except on the production of the prescribed licence, or maafee chittee." §. 8. "In addition to the aforesaid officers, a sufficient Military force, in the discretion of the officer commanding the station at Allahabad, shall, on application of the collector, be posted at the said barrier during the *mela* or principal concourse of pilgrims in the months of January and February. And it shall be the duty of the military employed on the occasion to prevent the concourse of people from breaking through the barrier, or otherwise forcing admission." §. 9. "The licence and maafee chittees, after being shewn at the place of admission, shall be delivered up to the officers who may be appointed to receive them; and shall be returned to the collector in order to their being cancelled." §. 10. "All persons, who, with a view to avoid payment of the duty, shall, instead of presenting themselves at the established places of admission, attempt to cross over in boats from the opposite side of the river to the place of ablution, shall, on the fact being proved to the satisfaction of the collector, be liable to a fine of three times the prescribed duty; and if any hujam shall assist any such person in the performance of the ceremonies, such hujam shall be liable to the penalty stipulated in his engagements." §. 11. "No hujams, except such as shall have entered into the obligation prescribed by Section 5, shall be permitted to officiate in the ceremonies of the pilgrims; and any hujam who, without having entered into such obligation, shall be proved to the satisfaction of the magistrate to have contravened this prohibition, shall be liable to the penalty of fifty rupees for every pilgrim whom he shall be proved to have shaved; and in the event of his not

Section 7. Native officers to be stationed at the avenues to prevent the access of pilgrims without licences.

Section 8 A military force to be stationed at such avenues during the annual mela.

Section 9. The licences and maafee chittees to be returned to the collector.

Section 10. Penalty on pilgrims attempting to evade the duty.

Section 11. Penalty on unregistered hujams.

not being able to pay the penalty, shall be committed for three months to the dewanny jail."*

Concluding remark.

I SHALL conclude this section, and with it the third part of my Analysis, by remarking, that the sentiments and orders of the Honorable Court of Directors, and local Government, relative to the tax on pilgrims at the temple of Jugunnath, viz. that it is not to be considered a source of public revenue; but to be appropriated to repairs and other expenses connected with the place of pilgrimage, and convenience of the pilgrims; appear equally applicable to the whole of the taxes on pilgrims which have been noticed, as collected by the officers of Government. It may be argued, and justly, that a tax on the performance of any religious ceremonies tends to discourage, rather than encourage, the performance of such ceremonies; and that under the operation of the wise and necessary maxims of policy, which have been adopted by the legislature of Great Britain for the internal Government of her Indian colonies, the religious observances of Hindoo and other native British subjects must be tolerated, and protected from molestation; whether a tax be levied upon pilgrims, as a part of the public revenue, or otherwise. But it is evidently indecorous, if not inconsistent, that the Government of a nation professing Christianity should participate in the offerings of heathen superstition and idolatry; and the appropriation of the pilgrim tax (as judiciously ordered with respect to the surplus collections at the temple of Jugunnath, after providing for the repairs of the temple and other local purposes) to the construction or repairs of public roads leading to each place of pilgrimage, or to other purposes connected therewith, such as bridges, and places of accommodation for travellers, whilst it is manifestly a legitimate use of the tax, as conducing to the convenience of those from whom it is levied, must also prove beneficial and acceptable to the community.

* The receipts and disbursements on account of the tax on pilgrims at Allahabad, (also denominated *Meer Behr* in the official statements,) for the year 1815-16, were as follows:

Gross collections, including 595 rupees levied from pilgrims without licenses, who attempted to evade the tax, ...	Sicca Rupees 79,779
Charges, and commission of 5 per cent to the collector, ...	6,726
Net collections,	Sicca Rupees 73,053

FOURTH

FOURTH PART.

SECTION I.

RIGHTS OF LANDHOLDERS.

Intended introduction of this part with a short dissertation on Indian tenures of land.

IT was my intention to introduce this part of my Analysis with a short dissertation on the tenures of land in India; comprising such information as I might be able to collect from the public records, or from my own inquiries, on a subject which has been much discussed, in Europe as well as in Asia, without having produced any conclusive and satisfactory result. But when absent from my office, and from Bengal, in the year 1813, I had not the requisite materials with me; and since my return I have been too much engaged in the performance of constant official duties, to admit of my prosecuting such an undertaking, without neglecting more exigent calls upon my time. I must therefore, for the present at least, relinquish a design, the execution of which is not essentially necessary to complete what was proposed in the plan of this work;* and content myself with stating the issue of the public inquiry, made with a view to ascertain "the real jurisdictions, rights and privileges, of zemindars, talookdars, and jagheerdars, under the constitution and customs of the Mahomedan or Hindoo Government;" which (as already noticed,)† was ordered by the Court of Directors, in their revenue general letter of the 12th April 1786; in pursuance of the Thirty-ninth Section of the Statute 24 Geo. III, cap. XXV. I cannot however do this so fully, clearly, and advantageously, as by exhibiting, at length,

But the design necessarily relinquished for the present.

Issue of inquiry ordered by the Court of Directors in 1786, proposed to be stated.

By exhibiting Mr Shore's minute on the rights of zemin-

* See introduction, page 8.

† In Vol. II, page 173.

dars and talookdars, recorded 2d April, 1788.

a paper written expressly on the occasion, by the Member of Government, who returned to India (in company with Lord CORNWALLIS) on the ship which brought the instructions referred to; and who, from his long experience, and local knowledge, was naturally looked to for a principal part in the execution of them. I allude to a minute, on the rights of zemindars and talookdars, which was written by Mr. SHORE (now Lord TEIGNMOUTH;) and was recorded on the 2d April 1788; but has not, as far as I know, been published. It is not included in the Appendix to the Fifth Report from the select committee of the House of Commons, dated 28th July 1812, which contains Mr. SHORE's minutes of the 18th June and 18th September 1789, on the permanent settlement of Bengal and Behar. But as this omission cannot have proceeded from its being deemed less deserving of publication, it may perhaps form part of other papers, which had been previously printed; but have not fallen under my inspection. The documents which accompanied this minute, in the form of an Appendix, will also be annexed to it; and some notes, which were added, in illustration of particular passages, are subjoined in their proper places.

MR. SHORE's *Minute on the rights of zemindars and talookdars, recorded on the proceedings of Government in the Revenue Department*, 2d *April*, 1788.

Inquiry respecting jurisdiction, rights, and privileges, of zemindars, talookdars, and jagheerdars, ordered by the Court of Directors.

"The Court of Directors, in their general letter by the Swallow, directed this Government to ascertain, as correctly as the nature of the subject would admit, the real jurisdictions, rights and privileges of zemindars, talookdars, and jagheerdars, under the constitution, and customs, of the Mahomedan, or Hindoo, Government; and what were the tributes, rents, and services, which they were bound to render, or perform, to the sovereign power; and in like manner, those from the talookdars to their immediate leige lords the zemindars; and by what rule, or standard, they were, or ought severally to be, regulated. Previous to my return to this country, in 1786, the Board of Revenue had been called upon for their opinion, on the rights of the zemindars, and had

Definition of a zemindarry by the Board of Revenue.

declared

declared a zemindary to be a *conditional office, annually renewable, and revocable on defalcation;* and had applied to the Supreme Council for their decision upon this opinion, as essential for their guidance, in the recovery of arrears of rent; and for making the ensuing settlement of the revenues. (Appendix, No. 1 and 2.) Mr. GRANT, who has employed much labour and ingenuity in researches into the finances of Hindoostan, has also combated the prevailing idea, that the zemindars are proprietors of the land; and in opposition to it has maintained, that *the sovereign ruler, throughout Hindoostan, is the sole virtual proprietor of the soil, in right and fact the real acting landlord.* (Appendix, No. 3.) These opinions stand in contradiction to others of high authority, and are too important to be lightly admitted, or hastily rejected. They affect the rights and interests, both of this Government, and its subjects; and this consideration alone would induce me to discuss them, if the orders of my superiors did not prescribe it."

Principle maintained by Mr. Grant.

These opinions contrary to others of high authority.

"THE general question may with propriety be divided into two parts; of right, and policy. If the former can be clearly ascertained, it will probably tend to elucidate the latter; which, at all events, deserves a separate consideration. In a discussion of this kind, some principles should be established on the outset, for deciding the points in issue. But here a material difficulty occurs. The constitution of the Moghul empire, despotic in its principle, arbitrary and irregular in its practise, renders it sometimes almost impossible to discriminate between power and principle; fact and right; and if custom be appealed to, precedents in violation of it are produced. In tracing such a system, where even natural rights are often sacrificed to power, we must carefully observe what, under successive administrations, has been left to the people; and explore those usages which have subsisted for the greatest length of time, with the fewest variations, and infringements. We must hear what the subjects of the state claim for themselves; and try these claims by the result of the investigation prescribed; and by the standard of reason, policy, and natural justice. In opposition to this, it has been asserted that

Question divided into right and policy.

Difficulties from the despotic constitution of the Moghul Empire, and its arbitrary practise.

What must be done under such circumstances.

Opposite reasoning founded

on the rights of the sovereign in a despotic state; and its consequences.

the sovereign alone, in a despotic state, is competent to decide the question about zemindarry rights, because it goes to ascertain the limits of his power, in defining the rights of his subjects; that the will of the Company, as possessing the rights of the Emperor, is absolute, and that it rests with them to make, explain, and execute the laws. (Appendix, No. 4.) If this reasoning be just, all discussion ought indeed to cease; for it reduces the question to this simple proposition, that the Company, having despotic power, are entitled to exercise it as they please. Rights are incompatible with these principles."

State of property and rate of land tax under ancient Hindoo Government.

"Of the customs and laws under the ancient Hindoo Government, as far as regards finance, I can supply little further information, than is contained in the translation of the code published in Europe. From that it is evident that property in land existed; and the system of taxation, as far as I can learn, was moderate. The natives, whom I have consulted on this point, affirm, that the ancient Rajahs exacted a sixth proportion of the produce of the lands; which the possessors were authorized to sell, or alienate, subject to the sovereign's claim for rent.* At the period preceding the Mahomedan conquests in India, the countries to the north and the west of Bengal were divided into different principalities; each under its respective Rajah; and Bengal itself was partly, if not wholly, in the same situation. The æra of the Mahomedan dominion in Hindostan may be properly dated from the establishment of the empire of GHISNA under SUBUKTAGEE, at the close of the tenth century of the Christian computation.† Delhi was finally subdued about the commencement of the thirteenth century; and the conquest of Bengal soon followed. The Patan dynasty, under

State of Bengal and adjacent countries before the Mahomedan conquest.

Æra of Mahomedan dominion in Hindostan and in Bengal.

Dynasty of Pa-

* This is confirmed by the Institutes of MENU, and Digest of JAGANNATHA; translations of which have been published since the Code referred to; which was translated by Mr. HALHED in 1775. vide trans. of MENU, Chap. 7: and trans. of Digest. Book 2. Chap. 2. See also trans. of *Sacontala*. Act. 5: and *Historical sketches of the South of India*, Chap. 5. where the above and other authorities are particularly noticed by Colonel WILKES.

† See the reign of SUBUKTAGEE, in D w's histo y of Hindoostan, translated from *Ferishteh*. The same work may be referred to, for what is stated respecting the conquest of Delhi and Bengal; and the Patan and Moghul dynasties.

IBRAHIM

IBRAHIM LODI, established its power about the middle of the fifteenth century: it was first overthrown by the Moghuls, under the conduct of BABER; but was not finally expelled until the year 1554, by HUMAYOON. It was under the reign of his son and successor, AKBER, that the Moghul government acquired form and consistency."

tans and Moghuls.

In what reign Moghul Government acquired form and consistency.

"THOUGH it might be of some utility to investigate the principles of the Government of the Patans, yet it is rather from the reign of AKBER, which began in the year 1556,* and ended in 1605, that we should commence our enquiries into the administration of the Mahomedan Princes. The history of the greatest part of his reign was written by his minister ABULFUZL; who compiled a voluminous code of the ordinances and regulations established by AKBER, with respect to finance. The principle seems to have been formed on the practise described in the institutes of TIMOUR; which was *to divide the produce of the land, in certain proportions, between the sovereign and the husbandman.*† That such indeed was the ancient constitution

Inquiries respecting administration of Mahomedan princes should commence with the reign of Akber.

Akber's principles of finance as stated by his Minister Abulfuzl.

All the rules of Moghul finance

* AKBER succeeded to the throne of Delhi on the 2d Rubee-oo-Sanee, A. H. 963; or the 14th February, A. C. 1556.

† See *regulations concerning the collection of the revenue*, in Major DAVY's and professor WHITE's translation of the *Institutes of* TIMOUR. The following extract is subjoined, for the convenience of those who have not immediate access to that work. "I ordained that the revenues and the taxes should be collected in such a manner, as might not be productive of ruin to the subject, or of depopulation to the country. I ordained that, in every country that should be subdued (to the inhabitants of which charters of safety and security should be granted) the produce and the revenue of that country should be inspected. If the subjects were satisfied with the old and established taxes, that those taxes should be confirmed, agreeably to the wishes of the subjects; or if not, that they should be determined according to the regulation. And I ordained, that the duties should be determined in proportion to the produce of the cultivated lands; and that the taxes on the produce of those lands should be affixed and ascertained. Thus first, that the cultivated grounds of the subject, which should be made fertile by the water of canals, or by springs, or rivulets, or rivers (if those waters flowed perpetually and continually) should be superintended by the officers of the crown; and that of the amount of the produce of those grounds, two thirds should be allowed to the prossessor thereof, and one third be paid into the royal treasury. If the subject should consent to pay the tax for the restricted lands in specie, that for the grain, due to the treasury, the sum should be fixed on the subject according to the current price of the grain; and that, corresponding to the current price of the grain, the money should be paid to the soldiers. If

appear to have been formed on this principle.

constitution of the empire, although the principle might be occasionally modified in practise, appears highly probable. All the rules of Moghul finance seem formed upon this principle; and the ordinances of the Emperors, for increasing the cultivation, and improving the quality of the produce, with a view to the augmentation of the public revenues, the appointment of inferior officers for keeping constant accounts of the land and its productions, the annual transmission of those accounts to Delhi, the regulations for dividing the crops, and measurement of the land, as well as the *hustabood* investigations of later times, must be referred to this origin. (Appendix No. 5.) Indeed, the common expression of the people, that "the land belongs to the zemindar, and the rent to the King," which from its universality is proverbial, affords a proof of it.*

Proverbial expression respecting land and rent.

TOOREN MUL

If the subject should not be satisfied with this mode of collection, and with the partition of the general produce into three parts, that the restricted lands should be divided into first, and second, and third *Jurreeb*; that the produce of the first *Jurreeb* should be estimated at three loads, and the produce of the second *Jurreeb* at two loads, and the produce of the third *Jurreeb* at one load; and half thereof shall be estimated as wheat, and half thereof as barley; and that of the total amount one half of the produce shall be collected. If the subject, notwithstanding this, should be unwilling to pay the tax in kind, that the value of a load of wheat should be fixed at five *Miskauls* of silver; and the value of a load of barley at two and a half *Miskauls* of silver; and that the duty of the *Killaab* shall be exacted over and above; but that nought else shall be demanded of the subject under any pretext or denomination whatever. That the rest of the lands of the husbandman, those which produced in the autumn, and in the spring, and in the summer, and in the winter, and the lands which depended on the rain for fertility, should be divided into *Jurreebs*; and that of the produce of those which were numbered, a third, or a fourth, should be collected. That the duties on the herbs, and on the fruits, and on all the other productions of the country, and on the reservoirs of water, and on the commons, and on the pasture lands, should be fixed and determined according to the ancient and established practices; and if the subject should not be content therewith, that the collections should be settled according to the *Hust-o-bood*. And I ordained, whoever undertook the cultivation of waste lands, or built an aqueduct, or made a canal, or planted a grove, or restored to culture a deserted district, that in the first year nothing should be taken from him; and that in the second year whatever the subject voluntarily offered should be received; and that in the third year the duties should be collected according to the Regulation."

Note added to the original minute.

* "This principle is clearly asserted both in the institutes of TIMOUR, and AKBER. In the former however landed property is as certainly avowed, in opposition to the maxim, that the sovereign, in the states of Asia, is the sole proprietor of the soil. The following extract proves this. "Waste lands

Toorenmul was the person commissioned by Akber to arrange the revenue of his empire; and his transactions in Bengal, where he resided two years, from what I can learn, were regulated by this principle. He collected the accounts of the canoongoes; and in some places ascertained their accuracy, by local enquiries, and by measuring the land. From these materials he compiled the *Tukseem*; or account exhibiting the constituent portions of the rent of each village, district, and principality: and the aggregate formed the *Toomar*, or rent roll, of the soobah. At what proportion of the gross revenue he estimated the sovereign's share, I know not. One account in my posession, of unknown authority, states that he regulated it, according to the situation of the land, and quality of the soil, by the labour and expense attending the culti-

Toorenmul employed by Akber to arrange the revenue of his Empire.

Transactions of this officer in Bengal.

Uncertain at what proportion of the gross produce he estimated the sovereign's share.

"lands of which there is no owner, shall be brought into cultivation by "the khalsa or exchequer; and if there should be an owner, and he be distressed, "the due means of holding possession shall be furnished to him, that he may cultivate his own lands." The same conclusion is inferrible from other passages. With respect to Bengal, there is reason to believe that the principle was never literally and strictly applied in practise. No traces of it can now be found in any part of what constitutes the province of Bengal, except in Purnea; and although Toorenmul may have formed his settlement upon an estimated division of the produce, the crop was not actually portioned out between the sovereign and husbandman. This supposition is supported by the following quotation from the *Ayeen Akbery*. "The subjects (of "this country) are very obedient to Government; and pay their annual rents in eight "months by instalments; themselves bringing mohurs and rupees to the places ap-"pointed for the receipt of the Revenues; it not being customary in the Soobah for "the Government and husbandman to divide the crop. Grain is always cheap; and "the produce of the lands is determined by *Nuck*, or estimate. His Majesty has had "the goodness to confirm these customs." This of itself is a modification of the principle in practice. In fact I do not conceive it possible for a Government, literally speaking, to divide the produce of the soil with the peasantry, to the extinction of all intermediate classes of subjects; although it may be attempted. In asserting that the rents of the soil belong to the sovereign, it is evident that nothing more can be meant by it, than that he has a right to such proportion thereof as he may chuse to appropriate for himself. I cannot discover any authority, either in the institutes of Timur, or Akber, or any where else, in support of Mr. Grant's assertion, that this proportion was fixed at one-fourth. The rate in the authorities referred is various; but generally one third. This indeed might be reduced, by allowing for charges, to a fourth; but the husbandman, in that case, enjoyed two thirds only. A firman of Aurungzeb determines that the sovereign's share of the produce shall never exceed one half; and in Behar that proportion is at this day taken by Government. Where such a principle prevails, it is the interest of Government to give stability to property, by an avowed limitation of its demands."

BENGAL SECRETARIAT LIBRARY.

vation of it, in different degrees of proportion; from one half, to an eighth of the estimated gross revenue. This account is at least probable. But he left with the zemindars the management of their lands; and concluded a settlement of the revenue with them; assigning to them a portion of the land, or its produce, for their immediate use and subsistence, under the denomination of *Nankar*."*

Settlement formed by him with the zemindars; and nankar allowed.

"The principle of this operation does not, in my opinion, destroy the right of property in the soil; although it greatly reduces the interest of the proprietors in it; for supposing the zemindar bound to collect the rents by the same rules of proportion on which his own rental was estimated, he could legally derive no emoluments beyond the subsistence allowed him. In that case, he could only benefit from those hidden sources, which the officers of Government were unable to explore; from improved cultivation, which remained undiscovered; or from the fears or liberality of the peasantry. These, in fact, were resources which the severest administrations have never been able to appropriate entirely; and hence the zemindary tenure, under the application of a principle of finance, which apparently rendered it of little

How far operation of principle stated effects the zemindar's right of property in the soil.

What circumstances rendered a zemindary valuable, under application of a principle which apparently rendered it of little worth.

Second note added to the minute.

* "This account of TOORENMUL's proceedings is collected from the best information which I can procure. I have only one written authority for it, and the name of the author is unknown. It is generally supposed that TOORENMUL fixed the rent of each ryot, and that this rule is now known under the term of *Assul*, or original rate; in contradistinction to the taxes, subsequently superadded. His residence in Bengal was too short for so extensive and laborious an operation; but he may have prescribed the rules at which the rents of the ryots should be fixed; and left the execution of them to others; or to the zemindars. Or we may suppose that he adopted an old existing rate; and this I deem probable. Neither is it certain that TOORENMUL first established the allowance of Nankar. Mr. GRANT, in his Analysis, asserts that the amount of real estates appropriated under this title for the family subsistence of the crories, zemindars, or collectors of the public rents, appears to have been originally settled, for the list entire of such offices throughout Bengal, at three lac, twenty six thousand, two hundred and fifty rupees. Whether this existed before Akber's reign, or not, I have not been able to ascertain. By a firman of the Emperor AURUNGZEB, directing the aumils, or officers of Government, to ascertain the rules and regulations established by TOORENMUL, it would appear they were then nearly obsolete, or forgotten."

worth

worth to the possessor, became valuable. It was transmitted by inheritance; and the ryots looked up to their zemindars as their hereditary patrons and governors; and as proprietors of the land within their jurisdiction; and these were certainly very important privileges. The natural consequences of such a system are obvious: frequent investigations of the land, and its produce; occasional remission on the rent roll; and concealment on the part of the zemindars. Under an ignorant, or weak administration, a decline in the revenue was unavoidable. An active, able, and well informed Nazim would attempt the recovery of the defalcation. His avarice, or his exigencies, will equally dictate the application of the fundamental principle, for his own emolument or that of his sovereign. In the commencement of AKBER's reign, and probably before it, the settlement was annually made; but motives of policy, humanity, and justice, induced him to form it for a period of ten years; and in his time, we are by the Ayeen Akbery informed, the zemindars of Bengal were numerous, rich, and powerful."*

Consequences of the system stated.

Ten years' settlement formed by AKBER. Condition of zemindars in Bengal at that time.

"THE settlement of Bengal by TOORENMUL was completed about the year 1582; and appears to have subsisted, with little variation, for a period of about seventy six years, until the year 1658, near the close of SULTAN SUJAH's Viceroyalty. During this interval, a very small proportion of the revenues of Bengal were remitted to Delhi. They were applied to the discharge of the public expenses of the province, for which they were fully adequate; and no general attempt appears to have been made to enhance the assessment of TOORENMUL, by new inquisitions into the produce of the lands. The addition imposed by SULTAN SUJAH, the result perhaps of such an enquiry partially undertaken, was moderate. (Appendix, No. 6 and 7.) JAFEER KHAN, who was appointed Dewan of Bengal by AURUNGZEB, and afterwards *Nazim* by FURUKSEER, in 1713, prosecuted his enquiries into the finances of the country with a rigour before unknown. He deputed his own

TOORENMUL's settlement of Bengal, how long in force.

Addition by SULTAN SUJAH.

Proceedings of JAFEER KHAN.

* See account of *the ten years settlement* in Trans. of Ay. Akb. Vol. 2, p. 365. See also History of the *Soobah of Bengal*, in Vol. 2.

agents

agents to scrutinize the value of the lands; and to raise the rents of them to the highest possible standard, by collecting for the Government all that the ryots, or peasantry, paid to the zemindars; to whom he left their established subsistence of *Nankar*.* He did

Third note added to the minute.

*** It is generally supposed that variable imposts were first introduced under the authority of JAFEER KHAN. He may have been the first nazim who gave his avowed sanction to them; but they had, from whatever authority, taken place before his time, and probably soon after the settlement of TOORENMUL. In proof of this the following account, taken from the records of the canoongoes, is produced; and many others, if necessary, might also be brought forward.

Toomar Jumma, including the *Maljehat*, or revenues of the land, and *Sayer jehat*, or variable articles, of the pergunnah Akber Shahy, sircar Oulumber. Bengal year 1098; or A. D. 1691.

Mozahs or Villages,				135	5	10						
Mehals,				15	0	0						
				150	5	10						
Jumma, or Assessment,										15,507	8	9
Hubboobat, or taxes, viz.												
Damee, per cent.	2	8	0				414	6	2			
Fotahdaree,	1	9	0				258	15	11			
Dedaree,	1	4	0				207	2	15			
Per cent.	5	5	0				880	8	8			
Tukkee, per cent.	1	0	0	165	11	14						
Behai kaghuz, (price of paper,)	0	1	12	16	9	2						
	1	1	12				182	4	16	1062	13	4
						Total,				16,570	5	13
Ferah; or additional taxes, calculated on the above total.												
Kussoor, per cent.	15	0	0	2,485	10	5						
Fotahdaree,	0	8	0	97	4	17						
Howah,	1	9	0	304	1	5						
	17	1	0				2,887	0	7			
Mehmany,							48	10	0			
Total Hubboob, or taxes,										3,998	13	11
Total Jumma,										19,506	6	0

The taxes, by this account, are near 27 per cent on the assul, or original rate; and the additional imposts are calculated on the consolidated total of the assul and first article of taxation. But long before the date of this account additional taxes upon the Toomar Jumma of TOORENMUL had taken place. In an account called a *Dutsoor ul Amul*, or rule of practice, kept by the canoongoes for the Bengal year 1072, or A. D. 1665, the following imposts are prticularized.

Neej

did not however annul their right of inheritance; and that he considered the zemindars to have a property in the soil, a striking proof will be exhibited in the course of these remarks. (Appendix, No. 8) From the death of JAFEER KHAN, to the present time, the claims of the zemindars to a property in the soil, and to succeed by inheritance, are supported by usage and fact. A minute history of this period would exhibit collusion, and concealment on their parts, opposed to the vexatious impositions, and demands of their rulers. It is the nature of an arbitrary government to produce such effects; and where discretion becomes the measure of exaction, the concealment of property forms the only barrier against it. We ought not to forget, that twenty five years of this period have elapsed under the administration of the English; who adopted, and have constantly admitted, an opinion, that the zemindars are hereditary proprietors of the soil."

From death of JAFEER KHAN to present time claims of zemindars supported by usage and fact.

"THIS position has lately been controverted, and has been declared unconstitutional, and inconsistent with the terms of the *sunnud*, or grant; which has been pronounced the sole ground of rights, and privileges of zemindars. The arguments by which this objection is supported may be reduced to the following terms. That the constitution of the Moghul Empire, acting upon a principle of dividing the gross produce of the soil with the peasantry,

Position lately controverted on appeal to sunnud of zemindars.

Arguments against proprietary rights of zemindars.

	Rs.	As.	G.	C.
Neej Kussoon, per 100 Rs.	4	14	10	2
Fotahdaree,	1	9	8	0
Howah,	2	4	16	1
Canoongoe's Tukker,	1	0	3	1
Price of Paper.	0	1	12	0
Total per Cent.	9	14	10	0

During the vigour of the Mahomedan Government, the accounts of the mofussil canoongoes were annually transmitted to the Dewan of the province; and he must have known these variations from the settlement of TOORENMUL. I am by no means convinced that even that settlement was not composed of an aggregate, including imposts on an original standard. If however it were not so, and the *assul* alone furnished the revenues of the province, these additional imposts must have supplied a revenue for the zemindars, and officers employed in the collections; and it is probable that there were others not inserted in the public records; and that the Government either did not know them, or what is more likely, connived at them."

annihilates the idea of a tenure conveying property in it, and devolving by inheritance; that the existence of the sunnud proves it essential for the investiture of a zemindar; that a zemindarry is expressly called a *service* in the sunnud, the terms of which, assign duties to be performed, but convey no property; that an acknowledgment was constantly paid to the sovereign, previous to a zemindar's investiture; and lastly, that security for the personal appearance of the zemindar was demanded and taken, previous to his investiture; which would have been an unnecessary precaution, if the lands were considered as his property. In answer to these arguments the following observations occur. That although the avowed principle of the Moghul constitution limits the value of landed property, and makes it dependent on the equity and humanity of the sovereign; it is not incompatible with its existence, and goes no further than to establish the right of the state to a proportion of the rents of all land. That the inheritable quality of the zemindary tenure is ascertained by the laws of usage and prescription; which in all countries are admitted as legal and indefeasible, where they are derived from any principle of natural right; or are conformable to right reason. That the zemindary sunnuds were never conferred at discretion, or upon aliens, to the prejudice of the heir by kindred; and of course confirmed existing rights; but did not create them; and that in fact the principal zemindars only applied for sunnuds, and received them. That the inferior landholders succeeded according to their own laws of inheritance by right; and of course without any sunnud. That the term *service*, in the sunnud, can prove nothing to the prejudice of the zemindars, whilst it can be demonstrated that the tenure was hereditable. Property may depend upon services; or service, in the course of time, by usage, be converted into property and inheritance. That the acknowledgment, paid by the incumbent on investiture, is rather a proof of this, than an argument against the right of the zemindars; and if it may not be deemed an exaction, ought to be in the light of a consideration for the renewal of an estate. That no such consider-

Answer in support of zemindary rights.

ation

ation was paid by a *Crörie*, or *Aumil*; who were both collectors of the public revenues, but did not succeed by inheritance; and this circumstance marks a strong distinction between the zemindary tenure, and a common office. That in a country subject to frequent disturbances and revolutions, in which the zemindars as often took part against the established Government, as for it, the propriety, as well as necessity of a personal obligation, by which one subject became bound for the attendance and good behaviour of another, is obvious; without authorizing an inference to the prejudice of zemindary property. The period assigned in the grant for the duration of the tenure is unlimited; and the true conclusion, which this silence admits, is, that the tenure is good as long as the conditions in the grant are observed. (Appendix, No. 9.) By the terms of the grant, a zemindar is entitled to an established provision, under the name of *Nankar*, included under the head of *Muzkooraul*, after completing his annual agreements for the revenue. There is no proportion between the amount of it, and that of the pecuniary acknowledgment paid for his investiture. It was not sufficient for his subsistence; and it was still less a fund for the accumulation of property; nor can the permanent appropriation of the fund itself be reconciled to the idea of a fluctuating office." (Appendix, No. 10.)

NANKAR to which a zemindar is entitled by terms of his sunnud.

IN addition to the preceding observations, I shall add some conjectures on the zemindary tenure; and its establishment, or confirmation, by sunnud or grant. In AKBER's time, the zemindars of Bengal were numerous, rich, and powerful. They were not of his creation; and probably existed, with some possible variation in their rights and privileges, before the Mahomedan conquests in Hindoostan. From this circumstance, as well as other collateral considerations, there is reason to suppose, that the new invaders, who claimed the revenues of the country, from motives of policy and humanity, employed the ancient possessors of the land as their agents for the collection of the taxes of the state, superadding the jurisdiction exercised by the collec-

Further observations on zemindary tenures.

Zemindars were probably in possession of lands before the Mahomedan conquest; and confirmed by sunnuds, with powers adopted to the new system of finance.

tors

tors of revenue in their own system of finance.* That for this purpose they confirmed the former proprietors, by sunnuds or grants, conferring services, or offices, of an inheritable and permanent tenure. That hence the zemindars, if they did not originally possess, acquired in the course of time, a property in the soil; and the rights annexed thereto, of disposing of it by sale, gift, and mortgage; subject however, under any mode of alienation, to the sovereign's claims for rent. And that for the purpose of securing the revenues from fraudulent or concealed alienation, as well as the increase arising from improvement, a numerous body of inferior officers was appointed, to keep accounts of the land, and its productions; as well as a record of such events as affected the re-

Fourth note added to the minute

* "The following is a list of the officers mentioned in the Ayeen Akberv, as employed in the government of the country, and collection of the revenues.

First. The *Sepahsullar*, or Viceroy.

Second. The *Fouzdar*, for keeping the peace and preserving the police of the country.

Third. The *Meer Adul*, and *Cazy*, for the administration of justice

Fourth. The *Cutwal*, or head constable

Fifth. The *Amilguzar*, or collector of the revenues. Under him are the *Karkoon*, *Mocuddums*, and *Putwarries*, accountants, all of whom are employed in keeping accounts of the produce of the soil. Also the *Tepukchy*, or accountant for the treasury, and the treasurer

Sixth. The *Canoongoes*, whose duty it was to keep minute accounts of the land, its produce, its revenues, the rates of assessment, variations in it, alienations and annexations of land, and in short of every thing relating to the revenues, the land, and its produce. See translation of *Ayeen Akbery*, Vol. 1, pages 358 to 387, for a description of the functions of the officers specified.

This list is incomplete. It is remarkable that the zemindar, who in AKBER's time were numerous, rich, and powerful, and had so much concern in the revenues, are not mentioned in the list of officers. In the original *Ayeen Akbery* they are frequently called *Boomee*. This is either a Persian word implying *possessing the soil*, or earth, or a corruption of the Hinduvee term *Bhoomis*, or *Bhoomik*, which may be interpreted *Lord of the soil*, or earth. But whatever may be the origin of the word, *Boomee* and *Zemindar*, are the same."

It may be added, on the subject of the above note, that in the passage of the *Ayeen Akbery* translated by Mr GLADWIN "Whenever a zemindar, or a collector of the royal or jageer land, is disobedient," (Vol 1, p. 372, Cal Edition) the term *Buzurgûr*, (a Persian word, denoting generally a landholder, or husbandman) is used, instead of *zemindar*, in two copies of the original, which have been examined, and that *Amilguzar* is the officer, designated in the English version "collector" J. H. H.

venues

venues. That although the zemindars succeeded according to the common course of inheritance, agreeably to their own laws, some form, declaratory of the succession of the new incumbent, was necessary for the information of the officers of the state, and ryots; as well as for the security of the new zemindar, whose name was, upon his accession, enrolled in the public registers. The principal zemindars, who enjoyed extensive jurisdiction, and were admitted into the presence of their sovereign, or his viceroy, petitioned for and obtained sunnuds, not only as confirmations of their rights; but as an honorable distinction; and these they paid for, while the inferior zemindars were contented with a less formal and expensive acknowledgment of their rights.* Formerly the zemindars were bound to take care of the roads and bridges; and whilst the amount of their rents was permanent, and the profits arising from the lands left to them, they had an interest in fulfilling the dictates of their duty. Latterly, these functions have been neglected; and the suspension may be dated from the inquisitorial researches of JAFERR KHAN. The preservation of the internal peace of their districts, and the apprehension of thieves,

Principal zemindars only applied for and obtained sunnuds.

Zemindars formerly bound to take care of roads and bridges.

Further duties assigned to zemindars in pre-

Fifth note added to the minute.

* "I have not been able to trace any account of the zemindary sunnud to the reign of AKBER. The Board of Revenue have indeed quoted the form of a zemindary sunnud as in use in AKBER's reign, but the authority is doubtful. The AYEEN AKBERY contains a chapter on grants, which does not include the zemindary sunnud. Many other suppositions might be formed on the origin of these grants, if it were necessary; but as it is an indisputable fact that the zemindary tenure is hereditary, I deem all enquiries into its origin more curious than useful. Amongst a variety of zemindaries, to which the present possessors have succeeded without any sunnud, the following may be quoted; which are all held in the names of the former proprietors deceased before the Company acquired the dewanny. The two divisions of Mahomed Ameenpore held in the names of MOKOND and RAMKISHEN.

The two divisions of Lushkerpore, held in the names of NERENDERNARAIN and MODENARAIN.

Kankjole, held in the name of ABADULLA.

Pergunah Muldewar, held in the name of KISHENNARAIN.

Pergunah Chunderdeep, in the name of OODENARAIN.

Homnabad, held in the names of REHMUT GHASEE and MANOWER GHASEE.

Edelpore, in the name of RAMBULLUB.

Kismut Pergunah Hougla, in the name of LUTCHMYNARAIN.

Pergunah Atteah, in the names of KHODA NEWAZ, NUBBEE NEWAZ, and SHAH NEWAZ.

Pergunah Khergong, in the names of DEBDUL and SHAM SUNDER.

Pergunah Mehlind, in the name of RAJBULLUB.

serving the peace, &c.

murderers, and other violators of the laws, were amongst the assigned duties of the zemindars. They were also obliged to attend and assist their sovereign, for opposing invasion, and suppressing rebellion: but it was not unusual to grant them a remission in their rents, equivalent to the expences incurred by them, in the discharge of these services. These functions may be reconciled to the dependent state of property under the feudal system; which in many instances appears conformable to that of property in Hindoostan. The expences attending the performance of them could never be discharged from the allowances made to the zemindars under the general terms of *Muzcoorat;* but must have been supplied from other sources of emolument. With respect to the jurisdiction exercised by the zemindars, it was very limited. I cannot trace any delegation of power for the trial of delinquents, and the infliction of punishment upon them. If this was ever exercised, it must be either considered as an encroachment on the Royal prerogative; or to have existed by sufferance. For the enforcing the payment of the rents, they certainly, if practise be deemed authority, were allowed a power of coercion which has sometimes been exercised with a cruelty disgraceful to humanity."

Feudal system conformable, in many instances, to that of property in Hindoostan.

What jurisdiction was exercised by zemindars.

"The preceding explanation places the zemindars in a double point of view; as hereditary possessors of the soil; and as the servants of the state. Whether the functions of the latter designation are inherent in the hereditary tenure, or not, appears to me immaterial. Long before the establishment of the Company's authority in India they were united; and were exercised by the agents of the Company, when they held the dependent proprietorships of two small talooks. But though the tenure was hereditary, it was nevertheless conditional; and a zemindar was liable to dispossession, either for a failure in the payment of his rents, or for delinquency. The rigour, with which this penalty was enforced, depended greatly on the discretion of the supreme authority. If the arrears of rent were occasioned by a severe public calamity, they were excused; if from a cause of temporary operation, they were added to

Zemindars considered in two points of view; 1st, as hereditary possessors of the land; 2d ly, as servants of the state.

Zemindary tenure conditional, though hereditary.

How far the penalty of dispossession was enforced.

to the settlement of the ensuing year. Sometimes a superintendent was appointed; or the lands were assigned for a period to the management of another; or perhaps the tenure was given to a new possessor. In the case of delinquency, the penalty was proportioned to the fault; of which the ruler was the judge. Rebellion, or avowed resistance to the orders of Government, was usually punished by a total dispossession. The perpetration of murders or robberies, or a proved connivance at them, merited and obtained the same punishment. To remedy the evils arising from the incapacity of a zemindar, and secure the rents of the state, an officer was often nominated to the charge of the lands. In this case, the zemindars in Bengal, as far as I can learn, still received *Nankar*; and in Behar, *Malikana*. (Appendix. No. 11.) I shall conclude these observations on the nature of the rights, privileges, jurisdictions, and services, enjoyed, exercised, or performed, by the zemindars, with a remark, that by the Mahomedan laws, the principle which gives the sovereign a right to the produce of the soil, whilst it leaves the property in it to his subjects, is clearly and explicitly avowed; and that if the Mogul Empire was, in matters of finance, regulated by an opposite principle, the system was contrary to that religion, which the Emperors of Hindoostan professed and maintained." (Appendix. No. 12.)

Officer nominated to charge of lands when the zemindar was incapable of managing them.

Mahomedan law clearly recognizes the principle which entitles the sovereign to a portion of the produce of the soil, whilst it leaves the property in it to his subjects.

"In addition to the argument derived from the sunnud, against the prescriptive rights of the zemindars, the grant of lands conferred by *Altumgha* has been urged as a decisive proof, beyond controversy, that the property in land is exclusively vested in the Crown; and that the Emperors, so far from considering the zemindars as possessing any hereditable property in the soil, disposed of it in perpetuity to others. It is certain that lands under this tenure, exempt from all claims of rent, and descending by inheritance, are possessed to a very considerable amount in the Behar Province. But there is one observation, and that very important; that all persons holding grants of land under this denomination, or of jageers, pay to the zemindars a tenth of the gross

Argument against zemindary right of property from grants of altumgha.

Malikana left to zemindars in such cases.

gross produce, or leave with them an eqivalent to that amount in land, under the very expressive term of *Malikana;* which may be rendered *the right of proprietorship.* When it is considered that the altumgha grant has no reserve, or limitation; and that the persons who acquired by it the possession of land in perpetuity, had generally very considerable interest at court; it may be reasonably supposed, that they would not have relinquished any part of their sovereign's donation, except in compliance with an acknowledged right; whether derived from regal authority, or prescription. This fact exhibits a remarkable difference between the situation of the zemindars in Behar and Bengal. In the former province, they possess and claim a right to malikana, whether they have charge of the collections or not. In Bengal, they have nankar only, which does not in the aggregate exceed one per cent on the revenues. There are many other distinctions, of which I shall notice a few only. In Behar, the zemindar, when in charge of the collections, or the aumil who stands in his place on the part of Government, divides the produce of the lands with the cultivators in stated proportions. In Bengal, the settlement is made with the ryot, upon a standard called the *Assul*, or original rate; with an accumulation of the taxes successively imposed. In Behar, the extent of zemindary jurisdictions, compared with many of those in Bengal, is very limited; and though the zemindary property, in the former province, seems more explicitly avowed and confirmed, yet the zemindars themselves have been more depressed and reduced. This is accounted for, by the different systems of management adopted in the two soobahs; and by the numerous donations of altumghas, jageers, and other rent-free lands in Behar. Yet it is too remarkable to be unnoticed, that notwithstanding the frequent transfers of the land by these grants, the right of the zemindars to malikana remains inviolate, under every change. Most of the considerable zemindars in Bengal may be traced to an origin within the last century and a half. The extent of their jurisdictions has been considerably augmented during the time of JAFFER KHAN, and since, by purchases from the original proprietors;

Inference of acknowledged right in such cases.

Difference between zemindars in Behar and Bengal; in receipt of malikana and nankar.

And in division of crop, or adjustment of rent with ryots.

Further notice of Zemindary tenures in Behar, and situation of zemindars.

Origin of most of the considerable zemindars in Bengal.

tors; by acquisitions in default of legal heirs; or in consequence of the confiscation of the lands of other zemindars. Instances are even related, in which zemindaries have been forced upon the incumbents."

"I SHALL be happy if these remarks should be deemed to have elucidated the principle of the Mogul system of finance; and to have proved the inheritance, and property, of the zemindary tenure, to be compatible with it. Every allowance must be made for the difficulties attending researches of this nature, under the practise of an arbitrary form of Government, and with respect to a country subject to frequent insurrections and revolutions. Still however lest more positive proofs should be required, I have annexed authorities, deduced from established practise, and from the ordinances of the Emperors AURUNGEB, and FURUKSEER, and the example of JAFEER KHAN, the Nazim of this country. These will, I trust, elucidate the preceding arguments; and prove what I understand to be the established principle of Mogul finance as practised in Hindoostan, that *the rents belong to the Sovereign, and the land to the zemindar.* (Appendix, Nos. 13, 14, 15.) The former administrations in this country both wisely and justly consulted the natives upon the rights of the zemindars; and so far from wishing to exclude their opinions, the first principles of equity require that the zemindars should themselves be admitted to plead their own cause. At least, no judgment should be pronounced against them, until they have been heard in support of their real or presumed privileges. In a country, which, until our time, has been ruled by despotism, where the relation between the Sovereign and subject is that of lord and slave, where the subjects are seldom allowed to think for themselves, and are often obliged to resign their reason and natural feelings to their ruler's will, it is not surprising that the natives should find it difficult to reconcile the lofty ideas imposed upon them by despotic power, with any original rights belonging to themselves. But in an enquiry of this kind, I conceive it both justice and policy to appeal to them; and I have accordingly proposed a series of questions,

Authorities in proof of established principle of Mogul finance, as practised in Hindostan.

Equity requires that the zemindars should be allowed to plead their own rights and privileges.

Difficulty of reconciling power and right in despotic states.

Questions put to informed natives, respecting zemindary tenure, and rights, and their answers.

tions, respecting the zemindary tenure and its rights, to those who, from their situation or knowledge, either possess or have the means of acquiring information. Their sentiments will be found to agree generally with those which I have maintained. They know, at least, what has been left to them, from whatever source it was derived. This they claim; and thus far their opinions will be found consistent and well informed." Appendix, No. 16, 17.

Question of policy. Extract from BERNIER.

"THE question of policy now remains to be discussed, and this I shall answer by extracting from BERNIER the description of the real situation of the land and people, under a form of Government, where the sovereign was supposed to have declared himself the propietor of all the lands. *The Peasant reasons thus*—"Why "should I toil so much for a tyrant, that may come to-morrow to "take all away from me, or at least all the best of what I have; "and not leave, if the fancy taketh him, so much as to sustain my "life even very poorly? And the TIMARIOT, the Governor, and "the farmer, will reason thus with himself. Why should I bestow "money or take pains of bettering or maintaining this land, since "I must expect every hour to have it taken from me, or exchanged "for another? I labour neither for myself, nor for my children; "and that place, which I have this year, I may perhaps have no "more the next. Let us draw from it what we can, whilst we "possess it; though the peasant should break or starve; though "the land should become a desert, when I am gone. And for "this very reason it is, that we see those vast estates in Asia go so "wretched and palpably to ruin. Thence it is that, throughout those "parts, we see almost no other towns but those made up of earth and "dust; nothing but ruined or deserted towns and villages; or such "as are going to ruin. In conclusion, to be short, I say that the "taking away this propriety of lands amongst private men, would "be infallibly to introduce, at the same time, tyranny, slavery, "injustice, beggary, barbarism, desolation; and to open a high-"way for the ruin and destruction of mankind, and even of Kings "and states; and that, on the contrary, this *Meum* and *Tuum*,

"accompanied

"accompanied with the hopes that every one shall keep what "he works and labours for, for himself and his children, as "his own, is the foundation of whatever is regular and "good in the world."* To this reasoning and description, founded on true principles and just observations, I shall add one remark. If a Government which judged arbitrarily, and punished summarily, could not correct the evils resulting from the discretional exercise of authority; still less will it be in the power of an administration acting upon fixed laws and milder principles: and the English Government of this country being composed of members in a constant state of fluctuation, the necessity of fixing by law the rights of the people is absolute and indispensable."

Concluding remark on above reasoning, with reference to the British Government in India.

On the Talookdary Tenure.

On the talookdary tenure.

The word *talookdar* means the holder or possessor of a depen-

Sixth note added to the minute.

* "I have quoted the authority of Bernier, not only because I conceived his description just and his arguments well founded; but to point out his opinion as it stands in opposition to my own. Bernier resided chiefly at the capital of the empire; and his connections were with the officers of the court. Notwithstanding this and the opportunities of information he may be supposed to have had, I cannot agree with him in the universality of his assertion, that all the lands of the empire, with a few exceptions, which he details, were considered as the property of the crown. He resided in India during those contests which fixed Aurungzeb upon the throne; when the empire was in a state of confusion, and the licence of individuals was suffered to act uncontrolled. But whatever may have been the case in those places which fell under his immediate observation, I cannot admit it to be generally applicable; although I fully agree with him in the conclusions drawn from his own principles. In one sense the sovereign may, by a fiction, be styled the proprietor of the soil; since he exacts from all lands whatever a proportion of the rents thereof; which proportion is not fixed by any positive law, but discretional: and Bernier's assertion may have been founded on this explanation; which though it renders the property of the zemindars very precarious, cannot be affirmed to destroy it. Bernier's opinion has been adopted by many other writers. An extract from Harris's voyage, which has already been quoted by a former member of this Government, whose abilities have thrown much light upon the subject, stands in opposition to it; and is as follows. "*Zemin* "signifies land, and *zemindar* is one who possesses land; who pays some acknowledg-"ment to the emperor; but who is notwithstanding the free lord of his inheritance. "The zemindar and jageerdar both possess lands; but by very different titles; for "the former is a freeholder; and the latter a tenant at will, by the grant of the em-"peror. *Dar* signifies a possessor; that is to say, one who holds or enjoys any thing." Harris's *Voyages*, vol. 1. page 695.

dency

Meaning of the term.

Principal distinction in rights of talookdars.

Talookdars, who pay revenue immediately to Government, differ little from zemindars.

General origin of talooks, and how separated from zemindaries.

By what rules the rents of dependent talookdars are regulated.

dency. The tenures held by persons under this description are dispersed over the whole country, and too various to be minutely ascertained. The principal distinction in the rights of talookdars arises from the privilege which many possess of paying their rents immediately at the Khalsa, or exchequer, instead of to the zemindars; from whose authority they are wholly exempt; being immediately subordinate to that of the Government. Talookdars of this description differ but little from zemindars; except in the limited extent of territorial jurisdiction. They are all equally bound in the performance of the same services, and the payment of rents. Lately they have, with them, been made subject to an enchancement of their rents; but this I understand to be contrary to more regular practice and usage. These talooks, in general, appear to have been originally portions of zemindaries, sold or given by the zemindars; and to have been separated from their jurisdiction, either with their consent, or by the interest of the talookdars with the governing power. Some may perhaps have been conferred by the special authority of the dewan, or nazim, in default of legal heirs; or in consequence of the dismission of the former talookdars for delinquency. When the separations took place, the rents of the talooks were regulated by the standard of the *Toomar*, with an accumulation of subsequent imposts and charges; and this is a reason assigned for the former established practise, of limiting the talookdary rents to a fixed sum, not admitting of any increase. The talookdars, whose lands have not been separated from the zemindary of which they are portions, pay their rents to the zemindars, by various rules; some at a fixed rate, consisting of the *Toomar* jumma, and an addition for expences; others are assessed according to the variable demands of the Government upon the zemindar, and pay their proportion of all the charges for which he is answerable. In Behar, the talookdars pay according to the produce of their lands; and enjoy the same allowance which the zemindars themselves possess, of ten per cent malikana. Talooks of the latter description have chiefly been acquired by purchase, gift, or on condition of cultivating waste or forest lands; and far exceed the

proportion

proportion of those separated from the zemindary jurisdiction. Some talookdars are little better than ryots, with a right of perpetual occupancy, whilst they discharge their rents agreeable to the terms of their pottahs, or leases. It is generally understood, as an universal rule, that talooks ought not to be separated from a zemindary, unless the zemindars should be guilty of oppression or extortion upon the talookdars. The latter are as anxious to obtain the immunity, as the former are strenuous in opposing it; for, exclusive of the diminution of their jurisdiction, they would by this separation lose, what perhaps they have no right to exact, a *rusoom*, or fee, which they generally levy over and above the established rents of the talooks. This, when talookdars are in other respects treated with lenity and justice, is acquiesced in without demur. All talookdars, unless restricted by the terms of the grants under which they hold, have a right to dispose of their lands by sale, gift, or otherwise; still subject to the same dues to which they themselves were liable; and indeed this practise prevails in opposition to the conditions of their pottahs. A zemindar has no power to resume or dispose of the lands of a talookdar. From this explanation it must appear extraordinary that a talookdar, or holder of a dependent jurisdiction, should (as has been asserted) possess a right which is denied to his superior; that of disposing of his lands by sale. In my opinion the acknowledged right of all talookdars, whether paying their revenues to the khalsa, or to the zemindar, to sell their lands, is as strong a proof as can be adduced of the zemindars being invested with the same right; for we cannot, on any principle, admit, that the latter could convey a privilege to others, which they do not themselves possess."

Rule concerning separation of talooks from zemindaries.

Right of talookdars to dispose of their talooks by sale, or gift.

Inferred right of zemindars to dispose of their estates, in the same manner.

HAVING thus detailed what has occurred to me upon the rights and privileges of zemindars and talookdars, I ought to proceed to a discussion of those of the jageerdars. This however I shall do separately; that the connection of the subject now before me may not be broken. The present dissertation, which has occupied a great portion of useful time, contains a variety of arguments, and documents,

Rights of jageerdars reserved for separate discussion.

Summary of arguments in support of, and in opposition to,

rights of zemindars and talookdars.

Argument against proprietary right of zemindars.

documents, both in support of the rights of the zemindars and talookdars, and in opposition to them; and it may not be useless to insert a summary of the whole. On one side it is asserted, that by the principle of the Mogul constitution the property of the soil is absolutely and solely vested in the crown; that a zemindary is an office only, originally conferred under certain conditions expressed in the grant of investiture, which is the sole foundation of the tenure. That the right of the crown to the property of the soil is proved by the alienation of zemindary land in perpetuity under the denomination of altumgha; by the spirit of the rules of Moghul finance, as detailed in the institutes of TIMUR and AKBER, and in the ordinations of the emperors; and by the practise of the provincial delegates to increase the revenues by an appropriation of the whole produce of the soil. On the other hand, it is contended that the zemindars have by their tenure, however derived, a property in the soil, and the right of disposing of it; subject however, under any disposal or alienation, to the sovereign's claims for rent. In support of this assertion, the universal testimony of the people, the law of prescription, and the avowed and established right of inheritance of the zemindars, are adduced. These proofs are further strengthened by the ordinances of emperors; and by instances deduced from their conduct, and that of their delegates; by the practise of the Mogul Government, in selling zemindary lands for the discharge of arrears of rent; and by records of sales of the same lands by the proprietors thereof; by the acknowledged privilege of the talookdars to dispose of their lands; and by the avowed right of malikana enjoyed by the zemindars of Behar. In opposition to the fundamental principle, that the soil belongs to the sovereign exclusively, the institutes of TIMUR, the ordinations of AURUNGZEB, and the Mahomedan Laws, are produced. Doubts may perhaps still remain; and it is not surprizing that upon a subject so involved, it may not be possible to produce full conviction. But under such circumstances the most favorable decision to the rights of the people should be adopted. The arguments which would justify a recurrence to, what those who maintain it presume to be, the ancient constitution of the empire; in opposition to the claims

Zemindary right contended for, in opposition. Proofs.

Proofs.

Authorities against principle that the soil belongs to the sovereign exclusively.

Under circumstances of a doubtful nature the decision most favorable to the rights of the people should be adopted.

claims and opinions of the people; to the annihilation of all the transfers of zemindary lands by sale, gift, bequest, inheritance and adoption; and to the extinction of the very idea of property in the tenure; ought to be very conclusive. We may rather content ourselves with the principle, *of the sovereign's right to a proportion of the revenues of all lands not alienated by his sanction from the rental of Goverument;* a principle which, when considered, will be found to reduce the property to little more than a mere name; and to render it dependent on the equity and moderation of the governing power. Instead of lowering its value still more, we should endeavour to improve it by regulations, limiting the demands of Government to a precise amount; and by such provisions, as will leave to its subjects a competence, which due care and economy may convert into affluence. To this object my attention has long been directed. But it involves a detail of so minute and intricate a nature, that my success has not been in proportion to the labours with which it has been prosecuted. The difficulties arising from want of information, as well as from misinformation, are infinite; but I shall not be induced by them to relax in my endeavours; which I trust will at least be useful, if they should not be attended with all the success I myself could wish. I shall not in this place anticipate the subject; but conclude with a declaration, that having endeavoured to fulfil the wishes of the Court of Directors, in ascertaining the rights of Government and its subjects, I shall hereafter submit to the Board my opinion, in what manner the principles which I have professed can be best applied in practise for the advantage of both; and in the mean time adopt them for my own guidance, as far as possible, in the ordinary course of administration. With more leisure I might have been able to have given this paper a better arrangement; and to have produced other documents which might have thrown further light upon the subject; but the labours of study and research are ill compatible with the duties of official detail; and this observation must apologize for want of method or deficiencies in these remarks."*

Conclusion, for being content with the principle, which entitle the sovereign to a proportion of the revenues, of all lands not exempted from the public assessment by his sanction.

Suggestion of regulations to improve the value of landed property.

Difficulties experienced in forming such regulations.

But future opinion will be submitted, in what manner the principles stated can be best applied in practise for the advantage of Government and it's subjects.

* The original minute bears the signature of J. Shore; and a reference is subscribed, "for a list of documents against the rights of zemindars," to Appendix, No. 18. *vide* sequel.

APPENDIX TO MR. SHORE'S MINUTE.

No. 1.

Extract of a letter from the Committee of Revenue to the Governor General and Council, dated 27th March, 1786.

Appendix, No. 1. Extract of letter from the committee of revenue, dated 27th March 1786.

"HAVING proceeded thus far, Gentlemen, in explanation of the several points referred to us, it remains to answer the last enquiry of your Honorable Board, on the nature of the zemindars' rights. A true knowledge of these is not, we humbly conceive, of very difficult attainment. Yet the discussion has employed, for years past, the first talents, both in India and in Europe. A sober appeal to facts will sometimes convince, when the most powerful eloquence shall have failed to persuade. In this hope it is that we now presume to call your attention to the instrument herein before mentioned, upon the tenor and terms of which all right and privilege of the zemindar most unquestionably depend.* From this it

* The translation of a zemindaree sunnud, according to the form used in the reign of AKBER, is the instrument here referred to; as mentioned in a former part of the Committee's letter, from which the following is an extract—"With respect to the third question (what is, in general, the nature of the rights of the zemindars, according to the opinion of the canoongoes and native officers of the Revenue?) We have the honor to submit to you the opinion of our Dewan; together with a report from the Preparer of Reports, comprising the answers severally delivered on the subject by the ROY ROYAN, and the Canoongoes, and the native officers of the revenue. To the foregoing documents we have added, for the information of the Honorable Board, the copy and translation of two zemindary sunnuds, or the instrument conferring the office of zemindar; one of them bearing date as early as the reign of the Emperor AKBER; the other of a later date; the copy and translation of an *ultumgha* and a *muddudmosh* sunnud, or Royal grants bestowing land in donation; and conveying to the incumbent and his heirs for ever the possession and property of such land. Also the copy and translation of several *Ryotty pottahs*, or the tenure of the immediate occupants of the soil."

Of the two translations of zemindaree sunnuds refered to in the above extract, the second, viz. translation of a sunnud granted under the British Government, to CHYTUN SING, on the death of his grandson GOPAL SING, for the zemindaree of Bishenpoor, from the Bengal year 1187, has been published in the Appendix to Mr. ROUSE's *Dissertation concerning the landed property of Bengal*; which also contains the answers of the ROY ROYAN, and Canoongoes, to the interrogatories of the Committee of revenue. The other translation, which has not, I believe, been printed, was as follows:

"*Form of a sunnud for a zemindaree, granted in the time of* AKBER SHAH.

"Be it known to the present and future mutsuddies, chowdries, canoongoes, talookdars, ryots and husbandmen, of pergunnah ——— belonging to chuklah ———, dependant

it is evident that the office is conditional; that it is renewable annually; and revocable on defalcation. It is evident that though invested

dependant on the soobah of Bengal; that the office of zemindar of pergunnah ——— has been bestowed, from the commencement of the year ——— on ——— agreeably to the endorsed particulars, on condition of his paying ——— mohurs. It is required that, having performed with propriety the duties of his station, he deviate not from diligence and assiduity in the smallest degree; but observing a conciliatory conduct towards the ryots, and exerting himself to the utmost in punishing the refractory, and expelling them from his zemindaree, let him pay his revenues into the treasury at the stated periods; let him encourage the ryots in such a manner, that signs of an increased cultivation, and improvement of the country, may daily appear; and let him keep the high roads in such repair, that travellers may pass and repass in perfect safety. Let there be no robberies, or murders, committed within his boundaries. Should any one, notwithstanding, be robbed or plundered of his property, let him produce the thieves, with the stolen property; and after restoring the latter to the rightful owner, let him assign the former over to punishment. Should he fail in producing the parties offending, he must himself be responsible for the property stolen. Let him moreover be careful that no one offend against the peace of the inhabitants, by irregularities of any kind. Finally, let him transmit the accounts required of him to the *Huzzoor*, under his own and the canoongoe's signature; and after having paid up his revenues completely to the end of the year, let him receive credit for the *Muzcooraut* agreeably to usage. Let him abstain from the collection of any of the a *Abwab*, that have been abolished or prohibited by Government. It is also required of the aforesaid mutsuddies, &c. that having acknowledged the said person zemindar of that pergunnah, they consider him as invested with the powers and duties appertaining to that station. Regarding this as obligatory, let them deviate not therefrom."

(Signed) "A. CALDECOTT,
"*Deputy Persian Translator.*"

"*Form of a zemindary muchulka executed in the time of* AKBER SHAH.

"Whereas the office of zemindar of pergunnah ———, in sircar ———, belonging to chuklah ———, dependent on the soobah of Bengal, has been bestowed on me from the commencement of the year ———, on condition of my paying ——— mohurs, I, who am ———, of my own free will and accord, enter into this agreement, and obligation; that, having performed with propriety the duties incumbent upon my station, I will not be deficient in the smallest degree in diligence and assiduity; but observing a conciliatory conduct towards the inhabitants, and exerting myself to the utmost in furnishing and expelling the refractory and disaffected, pay my revenues into the treasury at the stated periods. I will encourage the ryots in such a manner that signs of an increased cultivation and improvement of the country may be daily visible. I will keep the high roads in such repair, that travellers may pass and repass, without molestation, and in perfect security. I will admit of no robberies or murders within my zemindary; but (which God avert) should any person be robbed, or plundered of his property, I will produce the thieves with the stolen property; and after restoring the latter to the rightful owner, I will consign the former over to punishment; and in case of failure in producing the offending parties, I will myself make good the stolen property. I will take care that no one within

vested with the management of a certain proportion of the collections, yet is he expressly restrained from the alienation of any land; the

in my zemindaree offends against the established laws and regulations. I will moreover transmit the accounts that may be required of me to the huzzoor, with my own and the canoongoe's signatures affixed to them, and after having completely paid up the revenues of the whole year, I will take credit for the *muzcoorant* agreeably to custom. Finally, I will abstain from the collections of any of the *Abwab* that have been abolished, or prohibited by Government. I have accordingly given this paper as a muchulka, or obligation, that recourse may be had hereto when occasion shall require."

(Signed) "A. CALDECOTT,
"*Deputy Persian Translator.*"

A zemindar's Hazerzaminy (or security for his appearance) granted in the time of AKBER SHAH.

"Whereas the office of zemindar of pergunnah ———, in sircar ———, belonging to chuklah ———, dependent on the Soobah of Bengal, has been given to ———; I, having become security for his appearance, engage and bind myself, that in case the aforesaid person should abscond, I will produce him, and in the event of my not being able to do so, I will be responsible for his engagement. I have therefore written these few lines in the nature of a hazerzaminy, that they may be called for when necessary.

(Signed) "A. CALDECOTT,
"*Deputy Persian Translator.*"

In Mr. GRANT's publication, entitled *an inquiry into the nature of zemindary tenures in the landed property of Bengal, &c* (page 12) after noticing the opinion expressed by the committee of revenue, in their letter of the 27th March 1786, as unanimously given, "after the most mature consideration of sunnuds, records, practise, and local information, that the zemindars had neither proprietary, nor heritable rights to the lands "they held under the constitution of the Mogul Government, but that their tenures "were merely temporary and official, in terms of their respective grants," he adds —"The board appear, however, to have mistaken, for a regular deed of the native "exchequer, the form of the annual *bundobusty sunnud*, devised by the Company's superintendent of the Khalsa in 1777, and intended to serve as a substitute for the "old permanent constitutional form of zemindary appointments, which unfortunately being declaratory of the investiture of an office, with exaction of the collected yearly rents, and certain other civil or financial services, was the cause of great "embarrassment, for, if referred to, it must necessarily refute the new doctrine "that represented the occupants to be landholders, and as such, had exempted "them from the jurisdiction of the Supreme Court, during the contest with the local "dewanny Government." But however applicable part of the reasoning of the committee of revenue may be to the annual settlement with a zemindar for the revenue of his zemindaree, by virtue of which he received an *Ammamah*, or bundobustee sunnud, according to the form adopted in 1777, and exhibited by Mr GRANT, in No. 5. of his appendix, as the *Form of a Bundobusty sunnud to be given to those zemindars with whom a settlement is made for their own zemindaries*; it is impossible that Mr. COWPER, who appears, from the proceedings of the committee of revenue, to have prepared their report on the rights of zemindars, could have made the mistake supposed by Mr.

the enhancement of any rates or rents; and the imposition of any new taxes: these being rights inherent in and specially reserved to Government. From a further inspection of a zemindary sunnud, it will appear that, so far from any property being supposed, or understood, as conveyed to a zemindar, by this his instrument of law investiture, the lands he occupies in virtue of it are not even considered, or admitted, as a security for his personal appearance; since, together with the *mòchulca*, a *hazir zamin* is demanded and exacted from him. If, on the contrary, the existence of a right be inferrible from the uninterrupted and undisputed exercise of it for ages, the *altumgha* sunnud is all sufficient to establish, beyond controversy, that the property of land in these countries is exclusively vested in the Crown. This instument (with others of the same kind as *ayma*, *muddudmash*, *&c.*) differs most essentially from the *zemindary* sunnud. The latter, as has been already shewn, appointing only to the conditional management of certain lands; whilst the first selects a portion of these very lands, and conveys both the possession and property of it to another person, and his posterity for ever, with the single reserve, that the zemindar shall no longer be accounted responsible for the rent, if the land is removed from his charge. Having said thus much on the subjects of them repectively, we shall now leave these documents, together

Mr. GRANT. The zemindaree sunnuds referred to in that report were those given in the reign of AKBER, and under the Company's Government, *on the succession of a zemindar*, and no mention is made in it of the *Bundobustee sunnud*, which was usually denominated the *Amilnamah*, or authority to manage and receive the rent of the estate, under a settlement with Government for the public revenue. Mr. GRANT was further himself mistaken in his strange supposition, that the Bundobusty sunnud prepared by the superintendent of the Khalsa, and approved by the Governor General and Council, in 1777, was *intended to serve as a substitute for the old permanent constitutional form of zemindarry appointments*; or, in other words, for the *zemindary sunnud*, also called the *dewanee sunnud*, given to the principal zemindars on the original grant of a zemindaree, or on any subsequent succession. Sunnuds of this description were still granted, according to established usage, subsequently to the year 1777, when applied for by the legal heir, or other rightful successor to zemindaries; independently of the amilnamah, or bundobustee sunnud; which, as observed by Mr. GRANT in his concluding remarks on this instrument, "being only for the annual settlement of the revenue, was to be renewed accordingly every year." It appears extraordinary that his knowledge of this fact did not lead him to detect the error of the supposed substitution. J. H. H.

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with the *ryot's pottah*, to make their own impression; and on comparison they will be found mutually to illustrate and explain each other. They are certainly the only evidence in point; superior to all argument; superior to the opinions of individuals, whether native, or European, however respectable. Opinion, in opposition to fact, can never indeed bear any weight on the present question. This kind of evidence (if evidence it can be called) is, as far at least as regards the natives, of a most dubious complexion; and this from the very strong and self apparent interest they must universally take in the decision of it, either as principals, or parties. The sentiments of Europeans have still less pretensions; and are indeed various and contradictory in the extreme. In conclusion, we think it necessary to remark that in speaking of the usage and custom of this country, we intend uniformly the ancient form and constitution of the Mogul Government."

APPENDIX, No. 2.

Extract of a letter from the Committee of Revenue to the Governor General and Council, dated the 18th April 1786.

Appendix, No. 2. Extract of letter from the committee of revenue, dated 18th April, 1786.

"In our address of the 27th ultimo, in conformity to your orders, we submitted to your Honorable Board, what we deemed the completest evidence in support of our unanimous opinion, that the soil undoubtedly belongs to the Government; not to the zemindars. But until this opinion be confirmed, or rejected, by the Honorable Board, we shall be left without a fundamental principle for our guidance, whether in the mode of realizing the balances, or in making the new settlement; because, supposing, as we have declared, the exclusive right to be in Government, then the obvious mode of recovering balances would be in every case by a confiscation of the private property of the defaulter; not by a sale of the lands which he holds only in trust, as the agent or officer of the state; and which by the terms of his commission he would forfeit by such mismanagement. So also, at the ensuing settlement, should any zemindar contumaciously refuse to renew his

his engagements with Government, upon equitable terms, a ready alternative presents itself in the appointment of some other to his office; instead of recurring to the pernicious expedient of farming; or to the very uncertain one of a khas collection. We therefore most urgently solicit your Honorable Board to favor us with a speedy decision upon this question."

APPENDIX, No. 3.

Extract from an Historical Analysis of the Revenues of Bengal, compiled by Mr. James Grant.

Appendix No. 3. Extract from Mr. Grant's Analysis of the revenue of Bengal.

After noticing a work recently published by Mr. Francis, and entitled "original minutes of the Governor General and Council, 1776, with a plan for the settlement of the Revenue of Bengal, &c." and mentioning it, as "a work replete with local information, and the soundest political doctrines when applied to the finances, or the state of civil society, in Europe; though entirely foreign to the circumstances of this country in many fundamental points," the following observations are added by Mr. Grant. "First, the grand material difference between us is on the nature of landed property. It is positively affirmed on the one side "that the lands of these provinces are not the property of the East India Company, as sovereign representative; but of the zemindars, and other classes of the natives; who owe nothing to Government but a fixed portion of the net produce," indifferently described, in other parts of the work, under the denomination of a quit rent, tribute, or land tax. This is declared to be "the main hinge on which the whole argument for the proposed settlement turns;" and the author's deductions will be found to flow regularly from that position. But it must at the same time, in justice, be observed, that it is the principle of this doctrine, as thought essential to the public interest, that seems to influence the ready belief of it's constant admission into the system of Mogul legislation; rather than any solid proofs of the fact, from what can be deemed incontrovertible evidence, either official, written, or circumstantial: for agreeable to an established European maxim, involving however a distinct

tinct secondary question, it is inferred, that the proprietory uses of the soil would be incompatible with the actual sovereignty; and that a mind impressed with such a notion might not be open to conviction, though the point of right were otherwise determined by authority. On the other hand, in the political disquisition delivered into the Board in December 1781, relative to the northern circars, and to which I must beg leave frequently to refer when treating on the subject of Indian finance in general, the very reverse of the foregoing proposition, in its more important as well as subsidiary affirmations, is formally set forth as incontestatable, on substantial specific grounds, admitting of an immediate final, or determinate issue. The sovereign ruler, in all parts of Hindoostan, if not through the whole of Asia, unless it be in the Russian dominions, is declared to be the sole virtual proprietor of the soil; not in the European feudal acceptation of the term, agreeable to which it hath lately been attempted to be qualified; implying a fictitious tenure as lord paramount; from whom all lesser holdings are supposed to be derived by every class of subjects; but in right and fact the real acting landlord; entitled to and receiving from, the ryots, or husbandmen, a certain portion of the gross yearly returns of the country in money or kind; fixed on a medium in Bengal at one fourth of the whole produce; according to a pecuniary estimation made about the year 1582, soon after the establishment of the Mogul government under AKBER; and continued thence without any deviation in the principle down to the present time; though it is much to be feared, the iniquitous practices of Indian landholders may have clandestinely extended that original equitable standard. It is further advanced as incontrovertible, that the zemindars, or the classes of natives hitherto considered the rightful proprietors of the lands, are actually no more than annual contracting farmers or receivers of the public rents; with stated allowances in the nature of a commission on the receipts; and a small estate, or portion of their territorial jurisdictions, set apart for constant family subsistence, whether in or out of office; but never exceeding, in the whole, by an univer-

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sal prescriptive law of the empire, ten per cent on the Mofussil collections: and that to alter, or otherwise define, these fundamental, implicitly acquiesced in rules, of financial jurisprudence in India, ascertaining the nature of civil tenures, the established mode of levying, and actual amount of, the rental or yearly assessment of the land, would be no less impolitic, useless, and dangerous in respect to probable future consequences, than unconstitutional, unnecessary, and a wanton sacrifice of the dearest, most essential, interests of Government in the present moment."

"THE speculative opinion involved in this proposition will be subject to cavil, and can only be determined by reference to past experience, still to be unfolded to the world; or perhaps after all inapplicable partly to actual circumstances. But as to the mere matter of fact, here we must join issue. A question of the highest rights of sovereignty, of subjects, or in property, is depending; and though we do not take our departure from the same point, it is but fair that we should start, as nearly as possible, on equal terms, in the same instant; or in plainer words, that the burthen of proof should not rest entirely on the one side; while bare assertions may have been admitted on the other, without previous investigation. Our different principles being then explicitly laid down, or avowed, and the arguments in support of both, with respective proofs or illustrations, being free for public examination and discussion, while the important object is one and the same; a candid ultimate decision may be the immediate result of an authoritative enquiry on the spot; to which I can anticipate the ready acquiescence of the author of the plan, even with the more assurance, that he seems to refuse in advance his assent to the practical inferences of secondary consideration, to be drawn from what, in his understanding, would be an unfavourable determination on the simpler points of fact. The parties eventually, and most interested on this occasion, compose the three principal orders of men in every subordinate state; the representative ruler, the landholders, technically or locally understood, and the

the whole body of husbandmen. To define the rights and privileges of the zemindars, &c. of India, forming the only intermediate class of territorial subjects existing between the Prince and peasantry, would be in truth, to distinguish also those of the two latter descriptions of persons, by marking the common boundaries of all in the chain of mutual dependence; and where alone they are capable of limitation; the higher extremes of despotism and the lowest of slavery being ever alike indefinite. Some thing like this, however, has been attempted in the political survey of the circars before referred to; and may again be loosely taken up in the present disquisition; but as we are persuaded that so great and powerful a body of people, such as the more eminent landholders of Bengal, particularly those stiled Rajahs, who have been compared in dignity with the feudatory Princes of the German empire in Europe, can never want special, able, and more agreeable advocates to plead their cause; particularly while they are suffered to administer, with uncontrouled authority, the unascertained revenues of their ample jurisdictions; so in this essay we mean rather to apply our reasoning to explain the immunities and relative situation of both the other corporate members of the community."*

APPENDIX, No. 4.

Extract from Mr. Mackenzie's *minute, recorded on the proceedings of the Committee of Revenue, 27th March* 1786.

Appendix, No. 4. Extract of a minute from Mr. Mackenzie, member of the committee of revenue.

"The latter part of this query, relative to the rights of zemindars, involves a question of the first magnitude and importance, and of which the sovereign alone, in a despotic state, is competent to decide, because it goes to ascertain the limits of his power, in defining the rights of his subjects. The Company, in my opinion, possess equal rights to those formerly held by the Emperor, under the ancient constituti-

* See the whole of Mr. J. Grant's *Analysis of the Finances of Bengal*, (from the introduction to which the extract annexed to Mr. Shore's minute is taken) in the Appendix to the Fifth Report of the Select Committee, 1812. No. 4.

on

on of the Mogul Government; consequently their will, with respect to zemindary tenures, is absolute; and it rests with them alone to make, explain, and execute the law. I am extremely concerned therefore that the question has been formally proposed to any class of natives of this country. The imperial dewan of the Soubah is not only the first in dignity and power in matters of finance; possessing the most unlimited sway and controul over the whole body of zemindars, their offices, and territorial jurisdiction; but is virtually, in right, form, and fact, the sole arbitrary judge of what belongs to the Crown and landholders, in matters of revenue; issuing and cancelling, at pleasure, all sunnuds or writs of tenure, until the Emperor's final decree be obtained; and actually the only person in the province, allowed to be the least capable of declaring what the *Ruajul Moolk*, or custom of the country, is or should be, respecting the privileges or immunities of all subjects of the state, paying their rents into the Royal Treasury."

APPENDIX, No. 5.

Translution of a Firman from the Emperor AALUMGEER *to* RUSHIK DAS.

Appendix, No. 5. Translation of a firman from the Emperor AALUMGEER to RUSHIK DAS.

"OUR mind being every intent in promoting the cultivation and improvement of the country, and contributing to the welfare of all classes of people, we have been induced to institute enquiries into the present state of the administration, both in the disrticts appertaining to the royal exchequer, and in the lands of the *Tyyooldars*.* From the report of our officers, it appears that in all the districts of our empire the ameens (collectors of the revenue) are in the practice of assessing the greatest part of the villages in a fixed sum at the commencement of the year *(Tushkhees)* forming their calculation upon the estimated produce of the whole year; the quality of the land, and the ability of the ryots; and taking into consideration also the near approach of the season; with other local peculiarities. That in certain places, where the ryots are averse to this system, they fix their assessment *(jumma)* by measuring the crops, or estimating the amount of the actual

* Members of the Royal family holding land in Jageer, denominated *Tyyool*.

produce (*Kunkoot*); and that in some few villages, the ryots of which are in a state of poverty, they exact an half or third, or two fifths, of the produce in kind. That at the end of the year, according to custom, they transmit to the Royal Duftur the gross account of the settlement in money, (*toomar jumma nucdee*,) under their own attestation, and that of the cories; and under the signature of the chowdries and canoongoes. It does not appear however, that there has been transmitted any account of the lands of each pergunnah, and the quantity cultivated, or any particular statement of the KHURREEF and RUBEE crops, distinguishing the proportion which the most valuable articles of cultivation bear to the inferior sorts; or any comparative account of the present crops, with those of the former year; nor any register of the number of cultivators (*Muzará,an*), in each village, whether farmers, (*Moostajiran*,), ryots, or others; by means of which a judgment may be formed of the actual state of each mehal or division; and the grounds on which the mutsuddies grant deductions from the settlement, under the pretence of losses arising from drought, cold, or the cheapness of grain. By paying a proper attention to the state of the cultivators and cultivation of each village, and discharging their duty with ability, so that all lands, capable of being rendered productive, may be brought into a state of cultivation, and yield their full produce, the districts will become fruitful; and the ryots be rendered easy in their circumstances; and such will be the increase of cultivation, that should any calamity befal the country, the destruction of a part of the crops will not be so severely felt. It is our order therefore that you make yourself acquainted with the particulars relating to each village, in the pergunnahs of your dewanee and ameence jurisdiction; and that you ascertain the quantity of land capable of cultivation; specifying what is actually cultivated, and how much remains untilled; what quantity of the most valuable articles (*jins-i kawil*) is produced; and the reason why any part of the land is neglected. You will likewise ascertain the proportion of the produce collected during the administration of TORUL MUL, the

dewan

dewan of the emperor AKBER; and whether the duties (*sayer*) on merchandize, &c. are the same as were formerly levied; or whether they have been increased since the present reign. You will also ascertain the number of villages that are cultivated; and how many are desolate; with the cause of their being so neglected. You will exert yourself in bringing the latter into a state of improvement; and in cultivating such lands as are capable of being rendered productive, by entering into equitable engagements, and strictly adhering to them. You will also endeavour to promote the cultivation of the most valuable kinds of grain. Wherever the wells have become useless, you will cause them to be repaired; and also new ones to be dug; being careful to assess the revenue to be collected from them in such proportion as will leave the ryots an equitable share of the produce. You will collect the revenues of government at the period when they become due, but suffer no oppression to be exercised on the ryots. You will annually transmit registers, containing an account of the number of cultivators in each village; the quantity of lands cultivated and uncultivated; (specifying whether it be watered by wells, or by the rain;) the proportion which the valuable articles of cultivation bear to the inferior kinds; the present stock of the implements of husbandry, and other requisites for tilling productive land; the number of desolate villages that have been brought into a state of cultivation; and the particulars of any new assessment,* with the amount realized from them in the course of the year."

"THE following regulations are transmitted for your guidance; and you will consider them as in force from the *KHURREE* harvest of the year *Neelan Eel*; being the eighth of the present reign; and you will likewise issue orders to the aumils of the jageerdars, enjoining them to collect the rents in the mode therein prescribed. *First*. You will not receive the choudries and aumils in private;

* *Uz dustoor oll amul i-sabie oonchebzecadeh mocurrur gushteh.* What has been established above the former rule.

but

but order them to attend in the dewan, or public hall of audience. You will direct that the inferior ryots have free access to you at all times; in order that they may become acquainted with you, and may represent their wants without being obliged to have recourse to the mediation of another. *Second.* You will enjoin the aumils to ascertain, at the commencement of the year, the number of ploughs, and the quantity of land in each village; and if the ryots are present, to urge every one, according to his ability, to increase the quantity of their seed, in order that the cultivation may exceed that of the former year; and also induce them to forsake the inferior kinds of grain (*jins i-adna*) for the superior (*jins i-adla.*) If any of the ryots shall have absconded, let the aumils enquire the cause, and prevail upon them to return. Let them likewise invite the husbandmen (*Kishawurzan*) of the neighbouring countries to come and settle in their districts; and give them forest land (*bunjur*) to clear, upon such terms as will induce them to restore it to a state of cultivation. *Third.* You will enjoin the aumeens deputed into the different pergunnahs to ascertain the present produce (*moujoodat*) of each village; and the quantity belonging to each cultivator; and to assess them in such proportion as will be advantageous to Government, and at the same time easy to the ryot; after which, let them transmit the particulars of the settlement (*Doul Jumma*) to the Royal dufter. *Fourth.* When the settlement is completed, you will enjoin the aumils to collect the dues of Government at the period fixed for paying each instalment; and not to suffer any balance to remain outstanding. Should any part of the first kist, or instalment, be uncollected, you will realize it with the second; and in the third kist you will collect the amount due for the whole year. *Fifth.* Let them collect the balances of former years by instalments proportioned to the ability of the ryots; and urge the ryots to discharge them at the periods agreed on. You will superintend the realizing of these balances yourself, in order that they may not be suspended by the connivance or negligence of the aumils. *Sixth.* When you enter upon a survey of the pergunnahs, in every village through which

you

you pass, you will observe the appearance of the crops, the quantity they will yield (*reea*), and the ability of the ryots; and take into consideration the amount of the jummu or settlement; in order that you may ascertain whether each individual has been equitably assessed. Should it appear that the chowdries, the moeuddums, or the putwarries, have been guilty of any frauds, you will console the ryots, and do them justice; and oblige the oppressors to refund their embezzlements. You will form the settlement of the present year, and make your estimate of the assets, with fidelity and accuracy; and transmit the particulars to the presence, in order that we may be enabled to judge of the wisdom of your conduct, and of the knowledge and ability of the aumeens. *Seventh.* You will continue such *Inaum*, and *Nankar*, as has been confirmed by the former khalsah administrations; and if our aumils have made any addition to it, you will ascertain what amount they have fallen in balance from the time of the grant of the jageers in assessment, and what sum they have received deductions for on account of deficiency of assets, or calamities; and if the amount shall appear exorbitant, you will cause such recent addition to be resumed, or discontinue the whole in future, till such time as they shall have restored their pergunnahs to their original state, when you will transmit an account of the same to the presence, that rewards may be bestowed on every one according to his merits. *Eighth.* You will direct that Sicca Rupees, of the reign of ALUMGEER, be paid into the treasury, but should they not be procurable you will receive such rupees of the reign of SHAH JEHAN as are current in the markets; levying a cess for the difference of exchange between them and siccas. You will on no account receive into the Treasury rupees short of weight. But if any delay shall arise in the collections from sending the rejected rupees to the bazar, you will deduct the amount of the actual deficiency (from the ryots) and cause them to be exchanged in your own presence. *Ninth.* If (which GOD forbid) any calamity, whether proceeding from as divine or human cause, should befal the country, you will enjoin the aumeens and aumils to preserve with care such

part of the crop as may be saved; and having ascertained the amount with accuracy, to form the settlement upon the Hustabood or present assets; not subject them to a second calamity by leaving the adjustment to the canoongo, chowdries, mocuddums, and putwarries; but see that justice is done to the ryot; and that he is protected from loss; and that the dishonest be debarred from embezzlement. *Tenth.* In order to prevent deviations from the pottahs, the levying of undue charges, and other forbidden cesses, by which the ryots are oppressed, you will cause the ameens, aumils, chowdries, canoongoes, and mocuddums, to enter into written engagements, binding themselves to refrain from collecting more than the amount specified in the pottahs; or levying any of the prohibited cesses. Should any one attempt to revive these practices, and refuse to desist upon the receipt of your orders, you will report their disobedience to the presence; that they may be dismissed from their employments, and others be appointed in their room. *Eleventh.* You will cause the Hindoo accounts to be translated into Persian, in order that you may ascertain the *Majh* and *Bebree* levied on the amount of the settlement, and all other charges and douceurs that have been exacted from the ryots; and whatever may be the amount, you will cause it to be inserted in the treasury accounts; and debit the aumeens, aumils, zemindars, &c. for such part of it as they may have appropriated to their own use. You will endeavour to obtain the original gross accounts (*kaghuz i kham*) of every village in each pergunnah, and cause them to be translated; and should there be some few villages, the accounts of which you cannot procure, owing to the absence of the putwarry, or any other cause, you will estimate their produce by an average calculation of that of the other villages; and enter the amount so estimated in the *Toomar*, or rent roll. Let it be the business of the dewan to keep the Toomar or rent roll; being careful that it is drawn out according to the established forms; and whatever the aumils, chowdries, canongoes, mocuddums and putwarries have appropriated to their own use beyond their au-

thorized prequisites, let him oblige them to refund the amount. *Twelfth.* You will transmit an account of such aumeens, crorees, and treasurers, who continue to discharge their trust with fidelity, and regulate their conduct according to the above directions; in order that they may receive the rewards due to their integrity and good conduct. You will also particularize those who adopt the opposite line, in order that they may be removed from their offices, and called to account, and receive an adequate punishment for their mal-administration. *Thirteenth.* You will be careful that the accounts and papers are regularly made out, and brought up at the proper periods. Wherever you reside, you will cause an account (*roz-namcheh*) to be kept of the daily receipts of the revenue from the land, and the duties on merchandize, and the price currents of the different kinds of grain. You will direct the daily accounts of the collections, and the amount collected, to be transmitted from the pergunnahs at the end of fifteen days; the cash account of the treasurer, and the statement of receipts and balances, at the conclusion of every month; and the toomar jumma, the moojmil or abstract, the jummabundy or settlement, and the receipts and disbursements of the treasurer, at the expiration of each harvest; and having obliged the aumils to refund whatever may have been improperly disbursed, you will transmit the whole to the presence. You will further be careful not to allow the accounts of one harvest to remain unclosed until the arrival of another. *Fourteenth.* You will receive the accounts from such aumeens, aumils, or treasurers, as may have been removed; and after carefully scrutinizing into them, oblige them to refund such sums as have been improperly charged. You will then transmit an account of the sums so recovered from the person dismissed to the royal offices, that he may receive an acquittal from the duster. *Fifteenth.* You will transmit the dewanee accounts, (*Nooskhah i-dewanee*) according to custom, at the end of each harvest, complety adjusted, and authenticated with your own seal and signature." At what period this ordinance was issued I cannot ascertain at present. It is found in a variety of persian manuscripts.

(Signed) J. SHORE.

APPENDIX,

APPENDIX, No. 6.

Appendix, No. 6. Assessment of Bengal in 1582.

Assessment of the Soobah of Bengal, made by TORUL MUL, A. D. 1582.*

Khalsah Lands, ...	Sircars 19; pergunnahs 682;	Rs.	63,44,260
Jageer Lands, ...	(interspersed in the above districts)		43,48,892
		Toomar Jumma of the Emperor AKBER,	1,06,93,152

And in 1658.

Assessment of the Soobah of Bengal, made by SULTAN SUJAH, A. D. 1658.

KHALSAH LANDS.

Khalsah Lands, according to the assessment of TORUL MUL, Sircars, ...	19, pergunnahs 682		Rs. 63,44,260	
Increase on the said lands, in consequence of a new hustabood made by SULTAN SUJAH, comprised in minute pergunnah subdivisions, ...		361	9,87,162	73,31,422

KHALSAH ANNEXATIONS.

From the side of Órissa (rated according to an original jumma khurch obtained in Órissa for the Aumily year 1112; or A.D. 1707)				
Goeul parah (part) ..... sircars,	1 pergunnahs	3	1,11,609	
Maljeteah ditto, ...	1	17	1,89,432	
Muscoory, ...	1	4	25,285	
Jellaory, ...	1	7	53,901	
Rumnah, ...	1	3	23,272	
Bustah, ...	1	4	12,422	
	6	38		4,15,921
				4,15,921
From the side of Asham (rated according to an account formed at the commencement of the present century,)				
Kooch Behar, ...	1	246	3,27,794	
Bengal Bhoom, ...	1	2	1,37,728	
Decan Kole, ...	1	3	27,821	
Dhikry, ...	1	2	6,126	
Kamroop, ...	1	3	31,451	
	5	256		5,30,920

ODYPORE, &c.

Odypore, ...	1	4	99,860	
Morad Khanah, ...	1	2	8,454	
	2	6		1,08,314
Peskuish, ...	1 mehals,	5	52,146	
Atint, ...	1	2	3,21,322	
				14,35,593
Sircars, ...	31 pergunnahs,	1350		87,67,015
Jageer Lands as in the reign of AKBER, ...				43,48,892
Total improved assessment of SULTAN SUJAH,		Daums, 52,46,36,280. or Rupees,		131,15,907†

* Taken from Mr. GRANT's Analysis. It is exclusive of five Sirkars of Orissa then annexed to, but afterwards dismembered from, Bengal.

† See further details of the Assessment of SULTAN SUJAH, as settled in 1658, in Mr. GRANT's Bengal Analysis.

APPENDIX, No. 7.

ABSTRACT account of the settlement of Bengal, including Jageers, from the Bengal year 1107, *to the Bengal year* 1128, *inclusive; or from An. Dom.* 1701 *to* 1721.

Assessment of Bengal from 1701 to 1721.

Amount Assessment of 1107, or A. D. 1700, ...	1,18,09,125	12	6	1
Deduct Decrease in 1108,	80,584	6	8	0
	1,17,28,541	5	18	1
Net increase in ditto,	3,21,447	15	9	3
1108 or A. D. 1701, total assessment	1,20,49,989	5	8	0
Net increase, ...	4,29,262	9	3	2
1109 or A. D. 1702, total assessment.....	1,24,79,251	14	11	1
Net increase, ...	61,767	0	17	1
1110 or A. D. 1703, total assessment.....	1,25,41,018	15	8	2
Net increase, ...	1,14,550	0	12	0
1111 or A. D. 1704, total assessment.....	1,26,55,569	0	0	2
Net increase, ...	13,500	13	16	3
1112 or A. D. 1705, total assessment.....	1,26,69,069	13	17	1
Net increase, ...	740	5	0	2
1113 or A. D. 1706, total assessment.....	1,26,69,809	2	17	3
Net increase, ...	6,838	1	13	0
1114 or A. D. 1707, total assessment	1,26,76,647	4	10	3
Net increase, ...	206	1	19	1
1115 or A. D. 1708, total assessment.....	1,26,76,853	6	10	0
Net increase, ...	718	2	16	2
1116 or A. D. 1709, total assessment.....	1,26 77,571	9	6	2
Net increase, ...	1,152	13	19	0
1117 or A. D. 1710 total assessment,.....	1,26,78,724	7	5	2
Net increase, ...	7,21,450	8	17	3
1118 or A. D. 1711, total assessment	1,34,00,175	0	3	1
Net increase, ...	26,763	0	9	2
1119 or A. D. 1712, total assessment.....	1,34,26,938	0	12	3
Net increase, ...	1,43,149	14	15	2

1120 or A. D. 1713, total assessment.....	1,35,70 087	15	8	1
Net increase,.....	1,429	10	4	3
1121 or A. D. 1714, total assessment.....	1,35.71,517	9	13	0
Net increase,.....	3,08,030	10	13	1
1122 or A. D. 1715, total assessment	1,38,79,548	4	6	1
Net increase,.....	59,852	12	15	2
1123 or A. D. 1716, total assessment.....	1,39.39 401	1	1	3
Net increase,.....	84,394	0	11	1
1124 or A. D. 1717, total assessment	1,40,27,795	1	13	0
Net increase,.....	2,074	7	6	0
1125 or A. D. 1711, total assessment	140,29,869	8	19	0
Net increase,.....	483	10	10	3
1126 or A. D. 1719, total assessment	1,40,30,353	3	9	3
Net increase,.....	60,973	9	14	3
1127 or A. D. 1720, total assessment	1,40,91 326	13	4	2
Net increase,.....	17,867	15	9	3
1128 or A. D. 1721, total assessment, ...	1,41,09,194	12	14	1

Abstract of the particulars of the increase from 1107 B. S. *or* A. D. 1701, *to* 1128, *or* 1721, *inclusive.*

Increase, ...	21,23,351	15	9	3
Lorah, ...	57,627	2	17	2
Batta, ...	21,518	0	2	3
Nuzzerannah, ...	62,049	4	14	2
Abwaub Foujdarry,.....	40,126	13	0	2
Price of Articles, ...	23,321	2	11	0
Profit on Cowries, ...	52,658	15	0	0
Total increase, ...	23,80,653	6	16	0

Assessment of 1107, ...	1,180,9 125	12	6	1				
Deduct decrease in 1108, ...	80,584	6	8	0				
					1,17,28,551	5	18	1
					1.41,09,194	12	14	1

Particulars

PARTICULARS OF THE INCREASE, STATED IN THE ABSTRACT.

CHUCKLAHS.	Increase supposed to be on the Hustabood.	Hoosdeswun.	Dustoor Zemindary.	Kussoor on Abwab.	Sewai. being the Towfeer of the Jageers.	Lowazimeh.	Total.
Moorshedabad,	513,491 0 8 3	0 0 0 0	0	0 0 0 0	48,610 3 16 1	16 845 10 5 0	578 917 7 12 0
Hooghly,	176 619 13 19 1	23.435 1 15 0	0	0 0 0 0	10,884 14 0 0	16,290 14 10 0	227,230 12 4 1
Jessore,	9,520 7 9 1	15,110 4 11 2	0	0 0 0 0	24,416 15 18 0	6,142 8 14 2	55,190 4 6 1
Bhoomah,	53,491 2 3 2	2,318 12 0 0	810	0 0 0 0	72,755 1 5 1	1 504 4 0 0	130,879 3 8 3
Akbernugur,	63 942 15 9 1	20,859 11 15 0	0	0 0 0 0	63,993 11 10 0	2,865 0 17 0	150,66 13 5 3
Islamabad,	14,846 4 10 0	0 0 0 0	0	0 0 0 0	11,105 2 18 0	0 0 0 0	25 951 13 8 0
Bumler Balasore,	29,705 9 13 0	0 0 0 0	0	0 0 0 0	0 0 0 0	0 0 0 0	29 705 9 13 0
Hijelee,	37 955 18 10 1	0 0 0 0	0	0 0 0 0	8,068 12 12 3	2,312 11 1 10	48,336 8 10 0
Gurree Baree,	33,989 7 18 1	0 0 0 0	0	0 0 0 0	0 0 0 0	0 0 0 0	33 989 7 18 1
Jehangeernagur,	53,580 12 6 0	5,336 2 3 0	0	3,472 2 4 3	1,50,388 0 18 1	0 0 0 0	2,17,777 1 1 0
Goragaut,	122,605 6 5 1	17,378 11 12 0	18,488	0 0 0 0	1,16,844 13 11 1	6 812 0 10 0	2,81,929 2 15 2
Burdwan,	194,851 12 5 2	0 0 0 0	0	0 0 0 0	66,038 12 8 0	64,528 6 4 1	3,25,418 14 17 3
Sylhet,	0 0 0 0	0 0 0 0	0	0 0 0 0	0 0 0 0	0 0 0 0	16,369 9 15 0
Total..	13,09,680 6 3 3	84,436 15 9 2	19 298	3,472 2 4 3	5,73,106 3 11 1	1,17,101 8 4 1	21,23,386 12 14 1

APPENDIX, No. 8.

Appendix, No. 8. Extracts from narrative of transactions in Bengal, during Soobahdaries of AZEEM-US-SHAN, &c.

Extracts from a narrative of the transactions in Bengal, during the Soobahdaries of AZEEM-US-SHAN, *&c. translated by Mr.* FRANCIS GLADWIN, *and published in Calcutta,* 1788.*

Government of MOORSHED KULY KHAN, also called JAFFER KHAN, 1713 to 1726.

Page 43. SOOBAHDARY OF MOORSHED KULY KHAN, COMMONLY CALLED JAFFER KHAN.

"FOR the purpose of making a fuller investigation of the capacity of the lands, he ordered the zemindars into close confinement; and put the collections into the hands of Bengally aumils, who executed Tahuds and Mochulkas. The revenues were paid immediately into the exchequer by these aumils; the zemindars being deprived of all interference in the receipts and disbursements. When he had thus entirely dispossessed the zemindars from the management of the collections, his aumils and their officers made an actual measurement of all the lands in cultivation, as well as of those called *Benjer;* and obtained information of the ability of every husbandman, in every village throughout the soobah. To those who were so distressed as to be unable to purchase the necessary implements of husbandry, or grain to sow their land, he advanced tuckavy; and by this humane attention to the wants of individuals, cultivation was increased, and the revenues consequently augmented." He made an exact hustabood, or comparative statement of the collections of former years with the present; and conformably thereto, his aumils collected the produce of every harvest immediately from the husbandmen. He resumed all the extra expences of the zemindars; and gave them a *Nankar* barely sufficient for a subsistence. Thus, by the augmentation of the revenues, by his attention to the sayer or duties, and by considerable retrenchments in the expences of every department, he brought prodigious sums into the treasury."

Page 56. "MOORSHED KULY KHAN continued to make the

* The original was written by order of Mr. H. VANSITTART, when he was Governor of Bengal.

collections

collections through his aumils, by displacing the zemindars; with a few exceptions, when he found them worthy of trust and confidence. He admitted of no charges of *sebundy*; nor for the maintenance of an army. Two thousand cavalry, and four thousand infantry, were sufficient for all his purposes. NAZIR AHMED, who had been originally a foot soldier, was able to enforce payment of all the revenues of Bengal. The regulations and orders of MOORSHED KULY KHAN were so absolute, that the most refractory trembled in his presence; and his commands so implicitly obeyed, that it was sufficient to send a foot soldier to sequester a zemindary, or punish an offender, at the greatest distance. He did not allow the inferior zemindars even public access; neither did he permit the Rajahs, or any of his own officers, to be seated in his presence."

Page 58. "HE prohibited all zemindars, and Hindoos, from riding in palkees; and allowed them to make use only of strait bamboos for their chowpalahs."

Page 59. "HE put strict mohussils over the mutsuddies, aumils, canoongoes, and their officers; and confining them in the cutcherry, or in the dewan-khanah of chehelsetoon,* where they were refused victuals and drink; and not suffered to perform the other necessary calls of nature. Hircarrahs were also employed to discover if any of the mohussils were bribed to allow them even a drop of water; and they were some times kept in this manner so many days as to be brought to the point of death, and reduced to skin and bone. If their servants brought them any sustenance, with the connivance of the mohussils, if discovered, they were seized by the hircarrahs, and severely punished. To these severities were added the cruelties of NAZIM AHMED. He used to suspend the zemindars by the heels; and after rubbing the soles of their feet with a hard brick, bastinado them with a switch. In the winter he would order them to be stripped naked, and then

* Literally, *forty pillars*: the Newab's palace at Moorshedabad.

sprinkled with water: and he used also to have them flogged till they consented to pay the money. MOORSHED KULY KHAN employed none but Bengally Hindoos in the collection of the revenues; because they are most easily compelled by punishment to discover their malpractices; and nothing is to be apprehended from their pusillanimity. When he discovered that an aumil, or zemindar, had dissipated the revenues; and then falling in balance, was unable to make good the deficiency, he compelled the offender, his wife and children, to turn Mahomedans."

Page 68. "SEIF KHAN being appointed Governor of the province (Purnea,) with the most absolute powers, expelled from the zemindary of Beernagur the Son of BEER SAH, who had rebelled, and opposed him in arms in several actions. He followed the example of JÂFFER KHAN; and imprisoning all the zemindars, collected annually, from Purnea, eighteen lacks of rupees; the whole of which was at his disposal. He afterwards extended the boundaries; and considerably increased the revenues. The zemindar of Morung, intimidated by his power, gave no molestation; which enabled him to clear away the jungles; and bring into cultivation large tracts of land at the foot of the mountains. JÂFFER KHAN was fully apprized of those augmentations of the collections, and allowed SEIF KHAN to enjoy them; whilst he, in return, always shewed great respect to the soobahdar. Every year he paid a visit to JAFFER KHAN at Moorshedabad, with whom he lived upon terms of brotherly affection."

NAIB SOOBAHDARRY of SHUJAKHAN, 1726.

Page 128. *NAIB SOBAHDARY of SHUJA UDDEEN MOHUMMED KHAN.*

"HE commenced his Government by taking compassion on the zemindars, and setting them at liberty. After accepting from them a nuzzeranah, and upon their agreeing to an increase upon JAFFER KHAN's settlement of the revenues, he gave them leave to return to their respective countries. The zemindars, some of whom had been years in confinement, were glad to purchase

chase their release at any price. Besides the profit arising from the jageers, with the extra collections, under the descriptions of *Imarat* (buildings), *Karkhanehjaut* (workshops), and *Nuzzeranah*, (an offering or present); there was actually paid into the Royal treasury, through the house of JUGGUT SEAT, a crore and fifty lacks of rupees."

APPENDIX, No. 9.

Appendix, No. 9. Note on the mode of investing a zemindar.

NOTE on the mode of investing a zemindar; on the authority of BODE MUL, *one of the ablest and best informed of the Khalsa officers; to which is annexed a translation of the grant for the zemindary of Rajhashy.*

UPON the demise of a zemindar, his heir or heiress transmitted an account of the event, in a petition to the dewan of the soobah, and the roy-royan; or if landholders of the first rank, to the soobahdar himself; with letters to all the principal men of the court, soliciting their protection. To an heir, or heiress, who paid a large revenue to the state, the soobadar returned answers of condolence; accompanied with an honorary dress to the former; and with a present of shawls to the latter. Letters to a similar purport were transmitted by the dewan and the roy-royan. After performing the funeral rites of the deceased, the heir, if of age, was presented to the soobahdar by the dewan and the roy-royan; and after receiving the beetle leaf, and an honorary dress, was permitted to assume the management of the affairs of his zemindary. Minor heirs and heiresses received the honorary dress and shawls, abovementioned, through the agents deputed for that purpose to the court of the Nazim. Zemindars of a secondary rank were entitled only to a pair of shawls, and a perwannah of condolence from the soobahdar; and for those of an inferior class, an answer from the roy-royan, accompanied with the beetle leaf, was deemed sufficient.

THE zemindars succeeded to their zemindaries by right of inheritance; but until they consented to the payment of

the

the peishcush, or fine of investiture, to the Emperor, and a proportionate nuzzeranah, or present to the nazim, neither the imperial firman of confirmation was granted them, nor were they permitted to substitute their own signature to the public accounts in lieu of that of their predecessors. It often happened that several years elapsed before the demands of Government could be adjusted. The officers of the dewanny, in addition to the peishcush and nuzzerannah, swelled the account with claims of arrears due from the deceased zemindar; and from which they seldom receded, till they had exacted from his successor all that it was in his power to pay. These preliminaries being adjusted, the zemindar presented a petition to the roy-royan, praying for a sunnud of investiture. The roy-royan referred his petition to the *ser dufter dewanny*, or chief mutsuddy of the dewanny dufter, with orders to examine the contents, and prepare separate papers of agreement for the royal fine, or peishcush, &c. and the nuzzerannah, or present for the soobahdar. These papers being drawn out, and copied fair, were returned to the peshkar. The peshkar, either alone, or in conjunction with the dewan, presented them to the soobahdar, who superscribed the petition with the words *sunnud nuveesund* "let them write a sunnud;" or, *be nuzzer deramud*, "it has been seen;" and the papers of agreement for the peishcush and nuzzerannah, with the letter *soad*; and returned them to the dufter.

The *ser dufter*, or chief mutsuddy, upon the receipt of the above papers, thus authenticated, directed the canoongoes to draw out the *hukeekut jumma toomaree*, or rent roll of the zemindary; attested with their official signatures; and called upon the zemindar for a muchulka, or obligatory deed, binding himself to observe the conditions of his grant; and for a security bond for his appearance, which was generally signed by the canoongoes of the district.

The above deeds being executed, the dewan, or roy-royan, directed

rected the officers of the dufter to draw out a *ferd sewal*, or application, at the bottom of which a copy of the petition was inserted in angular lines, extending over three fourths of the breadth of the paper. In the remaining copartment, or the right side, called the *kasheah*, was specified, in abstract, the number of the mehauls, or districts, and whether granted in whole, or in part, *ba tufseel ikismut wa derobust;* and in the *bariz*, or middle of the paper, the amount of the jumma, or settlement; under which followed a particular account of each mehaul, or district. The *ser dufter* then numbered the papers of the sewal in figures, on the left corner at the top of the page, and submitted it to the dewan, or peshkar, for his perusal. The dewan or peshkar presented it to the soobahdar; who superscribed in the centre *sunnud be dehund wa marooz derga wala nemayund;* "Let them grant a sunnud, and represent it to the royal presence;" or if the imperial firman was not petitioned for, only the words *sunnud be dehund;* "let them grant a sunnud;" and after writing the number of the papers contained in the sewal on the right corner, returned it to the dufter. The mutsuddies then prepared a *ferd hukeekut*, or statement of the particulars of the grant (in conformity to the sewal) which was presented to the dewan; who wrote over it, *muchulka wa zaminee mewafuk zabitah geriftah sunnud be dehund*; "having taken the customary muchulka and security, let them grant a sunnud;" or only *be dehund wa be geerund*, "let them grant (a sunnud) and take a muchulka)." At the bottom, a copy of the sewal was inserted in angular lines; after which followed the particulars of the mehauls, &c. as described in the ferd sewal. The foregoing papers are called the *lowazimah-i-sunnud*, or the vouchers to the different officers of state for preparing the grant, and are inserted on the back of the sunnud, which is drawn out in the form and manner following:

The *ser dufter*, or chief mutsuddy, joined together with gum a sufficient number of rolls of paper, dividing the whole into four copartments, by doubling it into folds from the top to the bottom.

On the side intended for the reverse, one span and a half from the top was left plain; being the space called the *peshanee*, or front. Under this space the roy-royan (more properly called the peshkar of the Khalsa) wrote in large letters *zimmun noweesund*, "let them write the zimmun," or short recital of the grant. The mutsuddies then wrote the zimmun in the two middle copartments of the roll. Under the zimmun, on the right corner of the second copartment, called the *hasheah*, were inserted the number of mehauls, particularizing such as were granted in the whole, or in part.

Then followed the sewal, the hukeekut, the muchulka, the zaminy, or security bond, the cuboolcent, or agreement for the peshkush, written in angular lines, comprized in two-thirds of the middle copartments; and in the middle of the roll called the bariz, the amount of the jumma; after which followed the particulars of each mehaul in the zyl, or foot of the roll, being the conclusion of the vouchers inserted on the back of the sunnud. The roll, thus endorsed, was sent to the moonshee of the soobahdar, who wrote the *muttun* or text, or body of the sunnud, inserting at the bottom the day of the month, and the year of the reign, to which was sometimes added the æra in general use throughout the soobah. At the end of the line containing the date, the soobadar affixed his official mark, called *byz*; denoting the conclusion of the sunnud; as also his approbation of the whole transaction; and the dewan affixed his seal at the top of the sunnud. The zemindar then deposited a copy of the sunnud in the dufter, authenticated by the seal of the cauzy, or under his own signature, or that of his agent. The mutsuddies, upon the receipt of this copy, inserted the *nishan-i-dewanee*, or dewance mark, on the back of the original sunnud, in the margin at the bottom of the roll, specifying that on such a date a copy was registered in the dufter. Under the word *tareekh*, or date, the peshkar, or royroyan, signed the letter *dal*. On the left of the dewanee mark was inserted that of the *huzzoor novees*, (an officer who kept written proceedings of all business transacted

transacted by the soobahdar) and subscribed by him with the letter H. the inital of his official appellation. The sunnud, being thus completed, was delivered to the zemindar by the peshkar of the dewan."*

APPENDIX, No. 9,—continued.

TRANSLATION of a sunnud, under the seal of the Newab SERFRAZ KHAN; Dewan of the Soobah of Bengal; dated the 27th of the month Rumzan, in the 17th year of the Reign of his Majesty MOHUMMUD SHAH: or A. D. 1735-6. Superscribed—"It has been seen."

Translation of a zemindaree sunnud, granted to the zemindar of Rajshahy, in the reign of MOHUMMUD SHAH A. D. 1735.

To the mutsuddies of affairs, and the officers entrusted with public transactions, for the time being and to come, to the canoongoes, mukuddums, and husbandmen, of the purgunnah Rajshahy &c. belonging to the Soobah of Bengal, the paradise of kingdoms, be it known; that in consequence of the furd sewal, which has been signed by the noble and princely SHUJÂA UD DOULAH, MOHTIMUN UL MULUK, SHUJÂA UD DEEN, MOHUMMED KHAN, BEHADUR, ASSUD JUNG, Nazim of the Soobah, and agreeably to which the furd hukeekut and mochulka have also obtained signature, (the contents of all which are endorsed therein) the service of the zemindarry of the aforesaid pergunnah has been conferred, since the decease of RAMJEEWUN, and in consideration of a peishcush, &c. and the balances, and the annual jumma of the pergunnah abovementioned, according to the annexed endorsement, on the first among his contemporaries, RAM KUNT, the adopted son of the aforesaid person; to the end that, duly attending to the duties and functions of that service, he may not be wanting in the most minute particle of diligence and assiduity; that he pay into the royal treasury the peishcush, &c. and the balances, according to kistbundy; and discharge year by year, at the stated times and periods, the due rents, after receiving credit for the muzcoorat, nankar, &c. agreeable to usage: that he observe a commendable conduct towards

* This paper was printed in the Appendix to Mr. ROUSE's dissertation, published in 1791; with an acknowledgement of the receipt of it from Mr. SHORE.

the

the class of ryots, and the common people at large; and employ himself diligently in expelling and punishing the refractory; and exert his utmost endeavours that no trace of thieves, robbers, and disorderly persons, may remain within his boundaries; that he conciliate and encourage the ryots; and promote the advancement of cultivation, the improvement of the country, and the increase of its produce; that he take especial care of the high-roads, so that travellers and passengers may pass and repass in perfect confidence: and if at any time the property of any person shall be stolen or plundered, that he produce the thieves and robbers, together with the property; and delivering the latter to the owner, consign the former to punishment; that in case he do not produce them, he himself become responsible for the property; that he exert his vigilance, that no one be guilty of drunkenness, or irregularities of behaviour, within the boundaries of his zemindary; that he refrain from the exaction of the *abwabs* prohibited by the imperial court; and that he deliver into the dufter khanah of Government the official papers required, conformable to custom, signed by himself and the canoongoes of the soobah. It is therefore required of the aforesaid persons, that they regard the abovementioned Ramkunt as the authorized zemindar of pergunnah Rajshahy; and considering him as invested with the duties and functions appertaining thereto, that they receive all papers regarding that pergunnah, signed by him, as genuine and authentic. Let them therefore look upon these injunctions as obligatory; and obey them agreeable to instruction.*

ZIMMUN, or ENDORSEMENT.

Zimmun, or endorsement on the sunnud.

Agreeable to the furd sewal signed by the noble and princely Shujâa ud Doulah, Mohtimun ul Muluk, Shujâa ud Deen, Mohommed Khan, Behadur, Assud Jung, Nazim of the Soobah, and the furd hukeekut and muchulka signed in conformity there-

* Another translation of this sunnud, and its accompaniments, some what different in terms, but the same in substance, is given in the Appendix to Mr. Grant's *Inquiry into the nature of zemindary tenures.* No. 111. B.

to

to (the contents of all which are herein fully recorded) the zemindary of the pergunnah of Rajshahy &c. belonging to the soobah of Bengal, the Paradise of Kingdoms, has been conferred, from the time of the decease of RAMJEEWUN, upon his adopted son RAMKUNT, on his consenting to a peishcush, &c. the balances, and the jumma year by year of the aforesaid pergunnah, agreeable to the annexed particulars.

Derobust Mehals,	96
Kismutiah ditto,	68
Total, Mehals	164

CONTENTS OF THE FURD SEWAL. The furd sewal.

RAMKUNT, the adopted son of RAMJEEWUN, the deceased zemindar of pergunnah Rajshahy, &c. belonging to the soobah of Bengal, the Paradise of Kingdoms, has presented to the exalted presence a petition (the contents of which are herein recorded), representing his acquiescence in a peishcush, &c. and the balances and the annual jumma of the aforesaid pergunnahs, agreeable to the annexed particulars, in the hope of obtaining a Royal firman, and a perwannah, for the zemindary, from the time of the decease of the aforesaid RAMJEEWUN. In respect hereof, what are your commands?

Derobust Mehals,	96
Kismutiah ditto,	68
Total, Mehals	164

CONTENTS OF THE ARZEE, OR REPRESENTATION. The arzee.

FORM the time of my elevation at the decease of RAMJEEWUN, zemindar of the pergunnah of Rajshahy, &c. in the Bengal year 1137, to the end of 1140, I exerted myself diligently, and paid up the revenues of the khalsah and Jageer mehals without a

balance, at the stated times and seasons: but since the pergunnahs of the aforesaid zemindary are variously and widely dispersed, among the distant chuklas, within the boundaries of powerful zemindars; and owing to my not having yet been honored with a sunnud, confirming me in the zemindary, my ryots are molested; my boundaries by the abovementioned zemindars infringed; and my gomastahs and husbandmen prevented attending to the cultivation of the lands, and improvement of the country, with full confidence and security; I am therefore hopeful, from your favor and kindness, that I may be honored with a Royal firman, and soobahdary and dewanny perwannah, for the zemindary of the aforesaid pergunnahs; to the end that I may appear with credit and dignity among my equals. In the hope of obtaining the abovementioned deeds, I agree to the Royal peihcush, &c. together with the balances, and the annual jumma of these pergunnahs, agreeable to the annexed particulars

PEISHCUSH, &c. in consideration of obtaining a firman and perwannah, ... Rupees	12,03,378	1 11	0
Peishcush, &c.... .... Rupees 10,10,000			
Balances incurred by			
RAMJEEWUN, ...	1,92,378	1 11	
As above	12,03,378	1 11	

KISTBUNDY.

Rupees 1,75,000 to be paid annually from the year 1141 to 1146, inclusive.

One Lack by the end of Phaulgun, and the sum of 75,000 rupees at the time of making the remittances to his Majesty in the month of Jeyt. Amount of 6 years payments,	10,50,000	0	0
Payable at the time of making the remittances to court in the month of Jeyt 1147, ...	1,53,378	1	11

As

As above		12,03,378	1	11	0
Annual jumma of the Khalsah and Jageer Mehals		18,53,325	10	11	3
Total		30,56,703	12	2	3

DIVISION INTO MAL AND PEISHCUSH.

Mal, viz. balances		1,92,378	1	11	0

KISTBUNDY.

Rupees 27,500 to be paid annually from the year 1141 to 1146; amount of 6 years payments rupees	1,65,000	0	0	
Payable in 1147	27,378	1	11	
As above	1,92,378	1	11	
Annual jumma		18,53,325	10	11	3
Total mal		20,45,703	12	2	3

PEISHCUSH, viz.

Peishcush *(to His Majesty)*	8,17,000				
Nuzzerannah Soobahdarry,	1,67,000				
Hukul Vizarut,	27,000				
Total Peishcush		10,11,000	0	0	0

KISTBUNDY.

Rupees 1,47,500 to be paid annually from 1141 to 1148 inclusive; amount of 6 years payments,	8,85,000				
Payable in 1147	1,26,000				
	10,11,000				
Total		30,56,703	12	2	3

Payable

Particulars of Peishcush &c. in consideration of obtaining a firman and perwannah, Rupees.			12,03,378	1 11 2
Peishcush &c.....	10,11,000	0 0		
Balance in the time of RAMJEEWUN, ...	1,92,378	1 11		
As above	12,03,378	1 11		

KISTBUNDY.

Rupees 1,75,000 to be paid annually from the year 1141 to 1148 inclusive, a lac by the end of Phaugun, and the sum of 75,000 at the time of making the remittance to court in the month of Jeyt. Amount of 8 years payments, Rupees	10,50,000	0 0		
Payable at the time of making the remittance to court in the month of Jeyt 1147, ...	1,53,378	1 11		
	12,03,378	1 11		
Jumma of the khalsa and jageer mehals payable annually, agreeable to the accounts signed by the canoongoes, ...			18,56,325	10 11 3
Total,			30,56,703	12 2 3

Division into Mal and Peiscush.

Mal, viz. Balances, Rs. 192,378 1 11

KISTBUNDY.

KISTBUNDY.

Rupees 27,500 to be paid annually from 1141 to 1146 inclusive, amount of 6 years payments Rs.	1,65,000	0	0		
Payable in 1147, ...	27,378	1	11		
As above				1,92,378	1 11 0
Jumma payable annually Rupees				18,53,325	10 11 3
Total				20,45,703	12 2 3

PEISHCUSH, &c. viz.

Peishcush, ..	8,17,000				
Nuzzeranah Soobahdarry,	1,67,000				
Hukul vizarut, ...	27,000				
Total				10,11,000	0 0 0

KISTBUNDY.

Rupees 1,47,500 to be paid annually from 1141 to 1146 inclusive, amonnt of 6 years payments, ...	8,85.000				
Payable in 1147, ...	1,26,000				
	10,11,000				
Total				30,56,703	12 2 3

Contents of the Furd Hukeekut.

The zemindary of pergunnah Rajshahy, &c. belonging to the Soobah of Bengal, the paradise of kingdoms, having been confer- The Furd Hukeekut,

red, in conformity to the furd sewal signed by the noble and Princely SHUJÂA UD DOULAH, MOHTIMUN UL MULUK, SHUJÂA UD DEEN, MOHUMMUD KHAN, BEHADUR, ASSUD JUNG, Nazim of the Soobah, (the contents of which are hereunto annexed) upon RAMKUNT, the adopted son of RAMJEEWUN, from the time of the decease of the latter, in consideration of his agreeing to a peishcush, &c. the balances, and the annual jumma of the abovementioned pergunnah, agreeable to the account hereunto annexed, the aforesaid person prays to obtain a perwannah. In regard to preparing a deed of that kind for the zemindary of the pergunnahs in question, after taking a muchulka and cabooleeut, in conformity to custom, "What may be your commands?"

Durobust Mehals,	96
Kismutiah Ditto,	68
Total	164

Peishcush, &c. in the hope of being honored with a Royal firman, and with a perwannah, viz.

Peishcush, &c.	10,11,000	0	0					
Balances during the time of RAMJEEWUN,....	1,92,378	1	11	12,03,378	1	11	0	

KISBUNDY.

Payable between the years 1141 and 1146 inclusive, at the annual instalment of 1,75,000, Rupees	10,50,000	0	0					
Payable in the year 1147, ...	1,53,378	1	11					
	12,03,378	1	11					
Jumma of the Khalsa and Jageer Mehals, payable annually agreeable to the statement signed by the canoongoes of the Soobah, ...				18,53,325	10	11	3	
Total				30,56,703	12	2	3	

THEN

THEN follows a specification of the mehals with the rent of each, composing the mal or rent, and a specification of the peishcush. After which follows a muchulka, or obligation, executed by the zemindar.

FORM OF THE MUCHULKA.

"I WHO am RAMKUNT, the adopted Son of the deceased RAMJEEWUN, the zemindar of pergunnah Rajshahy, &c. Khalsa and Jageer mehals, in the Soobah of Bengal, the Paradise of Kingdoms,

"WHEREAS the zemindary of the aforesaid pergunnahs, from the time of the decease of the above named RAMJEEWUN, and on my acquiescing in a peishcush to the Royal Sirkar, and in the balances, and yearly jumma of the aforesaid mehals, according to the specified endorsement, has been conferred on me,

"Do agree and consent, of my own accord and inclination, and do give in writing, that punctually attending to the duties and functions of that service, I will not neglect, or be deficient in, the most minute particle of diligence and assiduity. I will observe a commendable conduct towards the body of the ryots, and the inhabitants at large; and employing my assiduous endeavors in expelling and punishing the refractory, I will exert myself in such a manner that not a trace of thieves or robbers shall remain within the boundaries of my zemindary. I will use my utmost diligence to conciliate and encourage the ryots; and to promote increase of cultivation and the improvement of agriculture. I will take such especial care of the high roads, that travellers and passengers shall pass and repass in perfect confidence and safety; and that no instances of robbery or murder shall occur. If however (which GOD forbid) the property of any person shall be plundered or stolen, I will produce the thieves or robbers, together with the property; and delivering the latter to the owner, I will consign the former to punishment; or in the event of my failing to produce them, I will myself be responsible for the property

perty so stolen or plundered. I will exert my endeavors that no person be guilty of drunkenness, or irregularities of any kind, within the boundaries of my zemindary. I will discharge year by year, at the stated times and periods, the due rents of Government, after receiving credit for the muscooraut agreeably to usage; and lastly, I will transmit to the dufter khanah of Government the official papers required, conformably to custom, under my own signature and that of the canoongoes of the Soobah. I have therefore written these few lines in the nature of a muchulka-cuboolleeut, that recourse may be had thereto when occasion shall require. Dated the 22d of Rumzan ul Mubaruk, in the 17th year of His Majesty's Reign.

Durobust Mehals,	96
Kismutiah Ditto,	68
Total	164

Peishcush in the hope of being honored with a firman and perwannah, viz.

Peishcush .... Rupees	10,11,000	0	0				
Balances, ...	1,92 378	1	11				
				12,03,378	1	11	)

KISTBUNDY.

Payable between the years 1141 and 1146 inclusive, at the rate of Rupees 1,75,000 per annum. Amount of six years, is Rupees	10,50,000	0	0				
Payable in the year 1147, ...	1,53,378	1	11				
As above	12,03,378	1	11				
Jumma year by year,.....				18,53,325	10	11	3
Total				30,56,703	12	2	3

Translated 12th April, 1787.

(Signed) A. CALDECOTT,

Deputy Translator.

APPENDIX,

APPENDIX, No. 10.

Appendix, No. 10. Mr. SHORE's remarks on the allowances to a zemindar, under the heads of *Muzkoorat*, and *Nankar*.

"By the terms of the sunnud, a zemindar is to receive credit for certain articles under the head of *Muzkoorat*, or particulars. Amongst these the *Nankar* is included, although in some sunnuds it is expressed, *Nankar*, &c. An inspection of the particulars of these remissions, as they stood in the Bengal year 1131, or A. D. 1724, when the assessment of the province, exclusively of Jageers, amounted to rupees 1,08,87,071 2 3 2, will prove that the amount was inadequate to defray the charges of collection; which, as nearly as I have been able to ascertain, amount upon an average to 4½ or 5 per cent on the gross collections. In some places they are less; in others as far as 7, 8, or 9 per cent. The annexed account is drawn out with a view to shew the nature of these charges; and though the distribution may not be perfectly accurate, it is sufficiently so for the purpose required. There are only two articles in it, which can properly be deemed applicable to the zemindar's private disbursements; viz.

Nankar, ---- ---- ----	Rupees	60,062	9 11	0
Dustoor zemindary, ---- ------		23,087	7 0	0
	Rupees	83,150	0 11	0

And this was the whole allowed to all the zemindars in Bengal.

I CANNOT trace when the Nankar was first settled upon the zemindars. The term, I believe, does not occur in the Ayeen Akbery; but it is mentioned in the ordinance from the Emperor AURUNGZEB to RUSHIK DAS as having long existed; a proof of error in the author of the history of JAFFEER KHAN's administration, who asserts it to have been settled by him. The work *Nankar* is compounded of *Nán*, which means literally bread, or subsistence; and *Kár*, business; and seems to imply, that it was a reward for services. Upon this definition it may be contended, that it was conferred on the zemindars for their services, as officers of the state; and that in this sense they could not be

deemed proprietors of the soil. But it may be reconciled, on the principle of the Sovereign's right to the rents of the land, and that of the zemindar to the property thereof; and then it will amount to no more than this, that the Sovereign, either in reward for the punctuality of the zemindars in discharging their rents, or as an inducement to them to be regular and exact, separated a portion of the land from the general rental of the country, subject to no claims of revenue; and allowed it to be held as such by the zemindars. This explanation is conformable to the meaning of *Nankar*, which we may also consider a separate territorial jurisdiction conferred upon the proprietors of the soil. After all, the Nankar may have been conferred on an occasion when Government employed its own officers in the collections; and took the management of the revenues out of the hands of the zemindars. I cannot discover any rates of proportion by which it was granted; neither does it appear to have increased with the augmentation of zemindary jurisdiction; as far as I can discover from an examination of the records. I have annexed a particular account of the Nankar of Rajshahy; which remained nearly the same when the zemindary was conferred upon RAMKUNT. The amount of the Nuzzerannah, which he engaged to pay, was 10,11,000 exclusive of the balances due by his predecessor, being 1,92,378 Rupees. Besides this, the douceurs to the nazim and his officers must have been considerable. His allowance of Nankar would never have sufficed to provide for his subsistence, and for the reinbursement of these expences. This indemnification must have arisen from the profits of the zemindary, and his claim to them have been tacitly acknowledged. This instance is not quoted as a general rule, for deciding the nuzzerannah to be paid by every zemindar. I believe that to have been regulated by the estimate formed of the opulence of the new zemindar; and of the profits of his rental; whilst, on the other hand, it is probable, that the allowances made to him, under the head of Nankar, were often regulated by favor."

Abstract

Abstract of the Muzkooral, or remissions upon the jumma of Bengal, as they stood in the year 1131 *B. S. or A. D.* 1742; *divided into distinct heads for the elucidation of the nature of these remissions.*

1 *Amount applicable to the zemindar's private disbursements.*									
1 Nankar, ...	60,062	9	11	0					
2 Dustoor zemindary, ...	23,087	7	0	0					
3 Remissions, ...	9,432	5	4	3					
					92,582	6	3	3	
2 *Amount considered as charges of collection.*									
1 Mokuddumy, ...	29,028	7	16	2					
2 Pykan, ...	15,327	7	10	3					
3 Dufterbund, ...	4	2	13	0					
4 Mehmany, ...	43	5	0	0					
5 Serinjamy, ...	165	8	5	0					
6 Jurady, ...	49	6	9	0					
7 Decgwary, ...	528	6	11	2					
8 Rahdary, ... --	802	8	0	0					
9 Chowkeedary, ...	141	0	0	0					
10 Advances to Molungees,	2,257	11	11	0					
11 Cowkeepers, ...	1,129	7	12	0					
12 Behry-bundy, ...	5,293	7	1	2					
13 Charges of salt, ...	55	0	0	0					
14 Cheragy, ...	134	7	10	0					
					54,960	6	0	1	
3 *Canoongoes.*									
Neemtuky of Canoongoes,	--		—		31,763	12	4	0	
4 *Charity, being a remission on the jumma.*									
1 Ayma, -- --	14,142	6	6	3					
2 Enam, ...	1,077	9	4	2					
3 Cuddum Russool, ...	75	5	5	0					
4 Khyrat, ...	275	2	12	0					
5 Rozeena, ...	1,065	2	10	3					
6 Muddud Mash, ...	10	0	0	0					
					16,445	9	19	0	
					1,95,752	2	7	0	

Account

Account of the Muzkoorat of Rajshahy for the same year.

1. AMOUNT APPLICABLE TO THE ZEMINDAR'S PRIVATE DISBURSEMENTS.

Nankar, ...					11,624	8	9	0
Dustoor zemindary, ...					22,600	0	0	0
					34,224	8	9	0

2. *Amount considered as charges of collections.*

Mokuddumy,	13,484	11	2	1						
Pykan, ...	2,274	12	17	3						
Dufterbund, ...	4	2	13	0						
Mehmany, ...	43	5	0	0						
					15,806	15	13	0		

3. *Canoongoes.*

Neem Tuky, ...					7,075	0	3	0

4. *Charity, being a remission on the jumma.*

Ayma, ...	3,048	3	8	3				
Enam, ...	706	0	1	2				
Cuddum Russool, ...	42	8	5	0				
Cheragee, ...	12	0	0	0				
Khyrat, ...	6	7	10	0				
					3,815	2	17	1
Total Muzkoorat,					60,921	11	2	1

Comparative statement of the Jumma and Nankar of the following principal Zemindars.

	Nankar.				Dustoor Zemindary.				Total.				Jumma.			
Rajshahy, ...	11,624	8	9	0	22,600	0	0	0	34,224	8	9	0	16,45,395	7	2	2
Burdwan, ...	19,000	5	19	0	487	7	0	0	19,487	12	19	0	20,21,016	12	6	3
Havily Purnea, ...	3,717	2	3	1	0	0	0	0	3,717	2	3	1	4,23,621	6	3	0
Lushkerpore, ...	555	6	1	10	0	0	0	0	555	3	1	10	1,44,248	2	17	3
Beerbhoom, ...	1,448	5	0	0	0	0	0	0	1,448	5	0	0	3,66,292	4	12	0
Bishenpore, ...	658	10	0	0	0	0	0	0	658	10	0	0	1,29,823	13	1	8
Ecoolpoor, ...	1,520	12	5	1	0	0	0	0	1,520	12	5	1	1,87,657	5	16	0
Mahomed Shahy, ..	407	15	16	2	0	0	0	0	407	15	16	2	1,15,144	7	2	0
Okerah, ...	3,306	5	2	3	0	0	0	0	3,306	5	2	3	5,51,235	14	12	2

Calculation

Calculation of the rate per cent which the nankar bears to the jumma of the following Zemindars.

	Rs.	As.	Gs.	Cs.
Rajshahy,	2	0	2	1
Burdwan,	0	15	8	1
Havily Purnea,	0	14	0	2
Lushkerpoor,	0	6	3	2
Beerbhoom,	0	6	11	5
Bishenpoor,	0	8	2	1
Esoofpoor,	0	12	19	0
Mahomed Shahy,	0	5	13	0
Okerah,	0	19	11	3

APPENDIX, No. 11.

Appendix, No. 11. Extracts from the proceedings of the provincial council of Patna respecting the allowance of malikanah to dispossessed landholders.

THE annexed extracts from the proceedings of the Patna Council will afford some information respecting the malikanah. When the lands of Behar were given in farm, and the zemindars and talookdars dispossessed of their lands, an allowance of ten per cent was paid for the latter. The Patna Council observe upon this rate as follows. "This we understand to be the ancient allowance, agreeable to the constitution of the country Government."

Some questions and answers from a native are also added.

(Signed) J. SHORE.

Extract from the Patna consultation, under date the 5th November 1770.

"Agreed, that the following form of agreement shall be entered into by renters; and that in such parts of the country as shall not be rented, perwannahs be written to the several aumils, that the collections shall be made, according to that regulation, from the ryots; that whatever allowances to servants &c. are necessary, be paid from the sircar, and no separate collections whatever be made on that account."

FORM OF THE AGREEMENT.

"I —— having rented —— in the soobah of Behar, for the sum of ——, in full of mal and abwab, foujdarry and dehdarry, chuklemany and mehmany, &c. (exclusive of the birmoter, &c. charity lands) do hereby engage, that I will pay the said sum, fussul by fussul, and kist by kist, without any pretence whatever. I will besides pay the several proprietors, according to custom; and agreeble to a separate paper the russoom of the cauzies of the sudder and mofussul canoongoes; and the allowance of pensioners, &c. muzcooraut. I will either agree with the ryots, and give them fixed pottahs with their own consent, including cesses, &c. as well as the revenue; or else, where the ryots do not chuse to enter into such an agreement, I will collect from them in kind, taking only 22½ seer in the maund, and leaving the other 17½ seer to the ryot, not subject to any deductions whatever. With respect to small zemindars and talookdars, I will settle the rents with them, if we can agree upon the terms; or if we cannot, I will take the talook into my own hands, and make them an allowance of five per cent on the produce. I will collect no fines; nor possess myself of the effects of people dying without heirs; fines and all such effects belonging to the sircar."

Extract from a letter of the Governor General and Council, dated Fort William, 4th February 1771.

"In the agreements, which you have entered into with the farmers, we observe that by one of the articles, the zemindars and talookdars are put too much under the power of the farmers; who are allowed to settle such terms with those people as shall be most for their interest; and if they cannot agree on those terms they may take the talooks into their hands, on making an allowance to the talookdars of five per cent on the produce for their subsistence. As such a power may, and in many places undoubtely will, be exerted to the prejudice of the petty zemindars and talookdars; we desire that in your next agreements with the farmers, on making a new settlement, this article may be amended."

Extract

Extract from the Patna consultation, under date the 2d March 1771.

"By every information we can obtain, the farmers would never be able to adjust their rents with the talookdars, unless they were indulged with the alternative of taking their lands under their own management; and there is less reason to apprehend any inconvenience from this system, because the bad debts, and expences, to which they subject themselves by so doing, makes them always more disposed to come to an agreement with the talookdars, if they will consent to adequate terms. However, if they approve it, we will in future fix ten per cent instead of five, as the talookdar's allowance; and this, we understand, to be the ancient allowance agreeable to the constitution of the country Government. It is true, this would occasion some small difference, in the amount of the revenue; but this difference, we believe, would be fully compensated by the addition it would give to the value of landed property; and the security which would from thence arise against outstanding balances."

Extract of a letter from the Governor and Council, dated Fort William, 13*th May* 1771.

"The regulation for obliging the farmers to allow the talookdars ten per cent, where they shall take the farms into their own hands, we entirely approve of; as it is much more just and equitable than the former allowance."

Extract from the Patna consultation, under date the 4th June 1771.

"In the future engagements ten per cent shall be allowed to the talookdars, agreeably to your orders. We propose also, if you approve, to make them engage that, (if the Government should think proper) they will continue to hold their farms a fourth year on the same terms as the third. We mean this, with a view to prevent them from being guilty of exaction in the pergunnahs the third year; on a supposition that they will be no longer interested in their welfare."

Revenue Board,
True copies,
(Signed) J. H. HARINGTON,
Sub-Sec.

Answers

Answers of Bustbram, *daroga of the Dufter Amanut, to questions transmitted in a letter from the President of the Board of Revenue, under date the 26th November* 1787.

QUESTIONS.

1st.—From what period has the malikanah, received by the zemindars in Behar, been first allowed?

ANSWERS.

When the Emperors first dispossessed the rajahs of Hindoostan, and introduced regulations for settling the zemindaries after their own manner, they particularly favored the proprietors of the lands; and demanded a small share of the revenue. When the country was flourishing, the Emperors ordered the rents to be collected in proportion to the produce; and zemindars began to represent their embarrassments. In consequence it was fixed, that in case the zemindars were incapable of making engagements, they should receive an allowance of malikanah. But centuries having elapsed since that period, it is hard to compute the number of years; or specify the names of the Emperors.

2d.—Do the proprietors of the jageers, and ultumghas, universally pay malikanah to the zemindars, or allow them possession of malikanah lands?

The proprietors of jageers and ultumghas pay malikanah, and some times allow them possession of lands; and the holders of aymas have usually alienated, when they first got the lands, a proportion of them as malikanah;

QUESTIONS.	ANSWERS.
	malikanah; but sometimes have paid the zemindars the amount in money. The other rent-free landholders grant, in the same manner, a proportion of land, and sometimes an allowance of money, to the zemindars.
	JAGHEERS.
3d.—State some specific instances of the amount paid to the zemindars by the jageerdars, and ultumghadars, on account of malikanah, in the form of an account, noticing the names of both; the amount paid; and amount of the jageers and ultumghas.	GHOLAM GHOSE, brother of Rajah AMEER ULLAH, zemindar of village Jelalpore, &c. pergunnah Goh, and village Umawun, pergunnah Incha, annexed to the Jageer of ASUDULLAH KHAN, &c. descendants of SHAKER ULLAH, receives malikanah, estimated at the rate of 25 rupees per cent, pursuant to ancient custom, notwithstanding 25 per cent is infringing the regulations. The other jageerdars, in the same pergunnahs, pay also in that proportion. The custom originates from this circumstance; when a sequestration of their estates took place in former times, the predecessors of the above zemindars shewed great indulgence and favor to the ancestors of the present proprietors of the jageer lands. GHOLAM GHOSE receives malikanah also account village Obro-

QUESTIONS. ANSWERS.

na, &c. pergunnah Munoura, attached to Nabob MOOZUFFER JUNG's jageer, estimated at the rate of ten rupees per cent.

ULTUMGHAS.

MODNARAIN, NYT SING, DERIA SING, and AUBHYNARAIN, proprietors of village Seeta, pergunnah Gyaspore, attached to the ultumgha of SHAKIR KHAN deceased, are allowed ten rupees per cent account malikanah. SHEIK CURUM ALLY and SHEIK BASÂWUN, proprietors of village Coriapore, pergunnah Shajehanpore, ultumgha of Raja KYALERAM, are allowed ten rupees per cent malikanah. Kawul, Baulchund, &c. proprietors of Bursapore, pergunnah Gyaspore, ultumgha of Serajuddeen, receive ten rupees per cent, account malikanah.

AYMAS.

JEHAROY, BEEKAROY and BUKTHAROY, proprietors of Currumpora, Havilly Azimabad, aymah of Mirza AFZUL ALLY KHAN, held possession of malikanah lands, at the rate of ten begas per one hundred, for many years.

4th.—

QUESTIONS.	ANSWERS.
4th.—Are there any zemindars, now in Behar, in possession of lands, which existed as zemindary, before the year 1550 English stile?	THE zemindars have had possession of their lands for centuries; but maliknah has not existed for so long a period. Enam and Nankar villages have been appropriated to the zemindars for many years; but some have been attached by former rulers; some resumed by the Company; and some are still retained by the proprietors.
5th.—You must deliver a copy of the general form of a grant for a jageer, with remarks, specifying any admitted variations from the general rule?	THIS will appear from the accompanying copies of jageer sunnuds, as required. The variations which subsist are as follows. Some grants are restricted to the death of the proprietor. Some depend on his dismission. And some specify the provision of the royal wardrobe, as the condition of the tenure. In other grants, the word dismission, &c, is admitted. Sometimes the number of villages are inserted; but in general, they are not mentioned.

4 COPIES.

Jageer sunnud of Rajah SHITABROY.

Ditto of ABU MAHOMMED KHAN, Mutabic of MAHOMMED DAOOD's jageer.

Ditto MAHOMMED TUCKY KHAN.

APPENDIX,

Appendix, No. 12. Authorities of Mahomedan law respecting landed property.

APPENDIX, No. 12.

AUTHORITIES OF MAHOMEDAN LAW ON LANDED PROPERTY.

Verbal translation from the Arabic.

"IN the book *Khazânutúl rewayah* it is written "tributary land is held in full property by its owner, and so is tithed (or decimated) land. A sale, a gift, or a charitable devise of it is lawful; and it will be inherited like other property." Thus in the book *Alhamadeeyah* is a passage quoted from *Almuheet* (a work of the lawyer MAHOMMED) "lands are held in full property (or in fee simple) by them. They shall inherit those lands, and shall pay the tribute out of them." And in the book *Alkhaniyah*, it is written "The sovereign has a right of property in the tribute, or rent." So in the book *Maden-i-Sharh-ilcuuz*, it is written: "A town, and district annexed to it, shall not be sold by the sovereign, if it pay tribute or rent to the crown; nor shall it be given, nor inherited; nor shall it belong to the royal dominions; for inheritance is annexed to property; and he who has the tribute from the land, has no property in the land; hence it is known, that the king has no right to grant the land which pays tribute; but that he may grant the tribute arising from it."

Appendix, No. 13. Translation of a firman issued by the Emperor AALUM GEER, in the year 1079 of the Hijra, or A. D. 1668-9.

APPENDIX, No. 13.

Translate of copy of a Firman issued by the Emperor AALUM GEER *to* MOHUMMUD HOSEIN, *in the year* 1079 *Hijra; (A. D.* 1668-9,*) containing directions for the collection of the Kheráj or revenue; and the Oshur or tithe.**

"THE almighty power having disposed our mind to rule the Empire according to the principles of justice, and the law of the prophet, we have deemed it expedient to issue our royal edict to all

* *Remark by* Mr. SHORE. "The original, from which this translation is made, is inserted in the MIRAT AHMEDY, a History of Guzerat; and is addressed to the dewan of that province. The principles of finance, as here stated, are agreeable to the laws of the Mahommedans; and the firman was issued soon after AURUNGZEB's accession to the throne of Hindoostan. The original is very inaccurate, and in some places scarcely intelligible. The terms applied to the revenues in it are at present obsolete."

officers

officers entrusted with the management of affairs throughout the regions of Hindoostan, directing them to levy the revenue, or Kheraj, in the mode and proportion enjoined by the holy law, and the tenets of HUNEEFAH, as laid down in the following articles."

First. You will deport yourself towards the ryots with kindness and humanity; and by wise regulations, and practical expedients, encourage them to extend their cultivation, so that no land capable of being rendered productive may remain uncultivated. *Second.* At the commencement of the season you will ascertain whether the cultivators are employed in their cultivation, or appear inclined to neglect it. If they possess the means, you will induce them to cultivate their lands by encouragement; and to those who require assistance, you will afford it. If upon inspection you shall find that though possessing the means, and blessed with a favorable season, the ryots neglect their cultivation, you will have recourse to threats, and punishment. You will inform the proprietors of land *(Arbab-i-Zemeen)* paying a fixed revenue *(Kheraj Mowuzzuf)* that they will be obliged to pay the revenue, whether they cultivate the land or not. Should it appear that the cultivators are incapable of furnishing the means of cultivation, you will assist them with money, taking security for the same. *Third.* In lands paying a fixed revenue *(Kheraj Mowuzzuf)* if the proprietors *(Arbáb-i-zemeen)* are unable to furnish the means of cultivation, or shall have absconded leaving the land uncultivated, you will give it to another; either on lease *(Ijarah)*; or for cultivation *(Zerát.)* In the former case, you will levy the revenue *(Kheraj)* on the leaseholder; and in the latter, on the share of the proprietor *(Hisseh-i-malik)* giving the overplus *(Titimmeh)* to the proprietor. Or you will substitute a person in the place of the proprietor, who may cultivate the land, and after paying the revenue *(Kheraj)* appropriate the overplus to his own use. When the proprietors of the land *(Arbáb-i-zemeen)* shall have acquired the means of cultivating it, you will cause it to be restored to them. If a person shall have absconded, leaving his land uncultivated,

you will not give it in lease (*Ijarah*) during that year, but in the next. *Fourth.* Where land continues to remain uncultivated, you will ascertain if it be a part of the high way; and in that case, you will consider it as an appendage of the towns and villages, in order to prevent its being tilled. Should it not come under this description, and be incapable of yielding a produce sufficient to indemnify the cultivator, you will exempt it from the payment of revenue (*Kheraj*); but should such land be capable of yielding a sufficient produce; or have been originally unproductive; in both cases you will enjoin the proprietor (if he be forthcoming, and possessed of sufficient means) to bring it into a state of cultivation. Should there be no proprietor to the land, or should he be unknown, you will give it to some person capable of rendering it productive. In such case, if the leaseholder be a Moosulman; and the land so given be contiguous to lands paying the tithe (*Arazee Oshuree*) you will rate it as *Oshur*, or tithe land; if to Revenue lands, (*Arazee Kherajee*), or if the leaseholder be an infidel (*Kafir*,) you will assess it as *Kheraj*, or revenue land. Should it not be liable to the payment of *Kheraj*, you will limit your present demand to a certain sum on each begah, which is called *Kheraj Mokuttà*, or an adjusted revenue; or you will collect a certain portion of the actual produce, as an half; which is called *Kheraj Mocasimah*, or rateable revenue. Should the proprietor be forthcoming, but destitute of the means of cultivation, and the land have been formerly subject to the *Kheraj Mowuzzuf*, or fixed revenue, you will rate it as before directed. Should it not be liable to the *Kheraj Mocasimah*, or should it be devoid of cultivation, you will neither demand the *Kheraj*, nor the *Oshur*; but, if necessary, assist the ryot with money, in order that he may bring the land into a state of cultivation. *Fifth.* If there be a tract of forest land (*Badeah*), the proprietor of which is forthcoming, you will confirm it to him, and not allow another to take possession. If the proprietor be not forthcoming, and there is no probability of the land yielding a return (*ôdât*), you will give it to whosoever shall appear to you best calculated to restore it to its proper state of fertility;

fertility; and the person who shall render it most fruitful, you will consider as the proprietor of the land itself; nor shall he be liable to dispossession at any future period. But if the land yields some return (*ôdât-i Ajnâs*), you will remove the obstacles which have prevented its being brought to account; and you will not suffer any one to reap the profits of that land, nor to take possession, or to become proprietor of it. If any tract of forest land shall have been formed into a village, and afterwards, from whatever accident, reverts to its former state of desolation, you will still continue it to the person who first received charge of it, nor suffer another to take possession. *Sixth.* Lands not subject to the *Oshur* or the *Kheraj*, you will assess according to law. From revenue land (*zemeen-i-Kherajee*) you will collect only so much as the ryots may be enabled to pay without being distressed; and on no account shall the amount exceed one half, though they may be capable of paying a greater portion. Where the amount to be paid is fixed (*Mocurrer*), you will continue to receive the fixed sum; unless it be revenue land (*Kherajee*), and the amount so fixed exceed one half. But should the ryots have diminished the ancient established revenue (*Kheraj-i-Sabuk*), you will assess them according to their ability; and if the land be capable of paying more than the *mocurrery*, or fixed sum, you will rate it in proportion. *Seventh.* You may convert the *Kheraj Mowuzzuf*, or fixed revenue, into the *Kheraj Mocasimah*, or rateable revenue, with the acquiescence of the ryots, but not without. *Eighth.* The period for levying the *Kheraji Mowuzzuf* is when each species of grain is ready for reaping. When any crop of grain therefore is ready for cutting, you will collect such portion of the revenue as is equivalent to the produce. *Ninth.* Should any inevitable calamity happen to the crops on land paying a fixed revenue (*Kheraj Mowuzzuf*) you will ascertain the amount of the loss sustained, and grant an adequate deduction; being careful to assess the proportion, to be levied on the remainder of the produce, with moderation, in order that the ryot may obtain a complete half. *Tenth.* In lands paying a fixed revenue (*Kheraj Mowuzzuf*), if any person possessing

possessing the means of cultivation, and unimpeded by any obstacle, shall leave his land uncultivated, you will collect the accustomed revenue. In cases of inundation, or scarcity of rain, or some unavoidable calamity befalling the crop before it is reaped, in so much that no part of the grain is saved, and the season is too far advanced to admit of the land being resown before the ensuing year, you will consider the revenue as no longer demandable. But should any calamity happen after the crop has been reaped, or even before which could have been averted, as the being eaten up by cattle, &c. or a time sufficient shall have remained for re-cultivating the land, you will collect the revenue. *Eleventh.* If the proprietor of land paying a fixed revenue (*Kheraj Mowuzzuf*) after cultivating his land, dies without discharging the revenue, and his heirs possess themselves of the produce, they shall be answerable for the revenue. Should the proprietor die before his land is cultivated, and without realizing the amount of the revenue, you will collect nothing. *Twelfth.* Where a fixed revenue (*Mowuzzuf*) is collected, if the proprietor gives his land on lease, or lends it to another, and the leaseholder, or borrower, shall cultivate it, you will collect the fixed revenue from the proprietor. Should the leaseholder, or borrower, convert it into a garden, you will collect the revenue from the latter. Should any person have possessed himself of revenue land (*Kherajee*) and afterwards deny the fact, if the proprietor has no witnesses, and the usurper (*Ghasib*) has cultivated it, you will collect the revenue from the latter. If he has not cultivated the land, you will collect from neither of them. If the usurper shall deny the fact, and the proprietor shall prove it by witnesses, you will collect the revenue from the usurper. In cases of mortgage, you will observe the same rules as are above laid down for usurpations; and if the mortgagee shall cultivate the land without the permission of the mortgager, you will collect the revenue from the former. *Thirteenth.* Where fixed revenues (*Kheraj-i-Mowuzzuf*) are paid, if a person sells any part of his land, which is capable of cultivation, to another, and it produces one harvest, which has

been

been reaped by the purchaser, the latter is entitled to cultivate what he may think proper during the remainder of the year, as the revenue will be collected from him. Should the purchaser not have reaped the harvest, the seller must pay the revenue. If the land so disposed of produces two harvests, and the buyer shall have reaped one, and the seller the other, they shall pay an equal portion of the fixed revenue. If there shall be a crop on such land ready for cutting, you will collect the revenue from the seller. *Fourteenth.* In fixed revenue land (*Mowuzzuf*) if any one shall appropriate his land for building a house, he shall continue to pay the former revenue levied from it; and in the same manner if he plant trees not bearing fruit. If he shall plant trees bearing fruit on land from which a fixed revenue is due, he shall pay a net revenue (*kheraj bila furjah*) upon the whole, at the rate of two rupees twelve annas, which is the produce of a garden, whether the trees bear their accustomed fruit or not. But grape vines and almond trees shall pay according to the above rate when they bear fruit; and after producing fruit, they shall pay two rupees twelve annas, provided the produce of one begah (which in law is 60 square guz according to the measure of SHAH JEHAN) amounts to 5 rupees 8 annas; otherwise you will collect one-half of the actual produce. If an unbeliever sells his land to a Moosulman, you will oblige the purchaser to pay the *Kheraj*, notwithstanding his professing the Moosulman faith. *Fifteenth.* If any person shall convert his land into a burial place, or a serai, for the use of the public (*Serai-i-wukfee*,) you will consider the revenue as no longer due from it. *Sixteenth.* Should there be any revenue land, the proprietor of which is not forthcoming, and another person should lay claim to the same in right of mortgage, or purchase, the law entitles him to possession. Whatever may be the produce of such land, you will collect the established share. If it exceed one half, you will reduce it; if it is less than a third, you will increase it in proportion. *Seventeenth.* If the proprietor of rateable land dies without heirs, you will give it on lease (*Ijareh*) or for cultivation (*Muzarâat*,) as is directed in the case

of land paying a fixed revenue. *Eighteenth.* In rateable land (*Moçasimah*) if any calamity befal the crop, you will not demand any revenue on account of what is destroyed. If after, or before, reaping the crop, any calamity shall happen to it, you will collect the *Kheraj* on such part only as remains.*

Appendix, No. 14. Proofs of a right of property in the zemindary tenure. Public sales, denominated *By-i-Sooltanee*, before the Company's Government.

APPENDIX, No. 14.

Proofs of the property of the zemindary tenure.

First. The sales of zemindary land, under the denomination of *By-i-Sooltanee*, which prevailed both in Beharand Bengal long before the Company's accession to the dewany. The term may be rendered *sale on account of the Emperor;* and under this form the lands of the zemindars in balance were sold, in discharge of the rent in arrears. In Bengal the process was as follows. The officers of Government under the provincial authority were directed to prepare a statement, exhibiting the annual rent of the zemindary, and the arrears; and the draught of a bill of sale for the amount. They were also to find out a purchaser. The dismissed zemindar was obliged to sign the bill of sale; and the price of the zemindary was received in discharge of the arrears. The bill of sale was attested by the cauzy, ca noongoes, and other creditable witnesses; and the name of the new zemindar was enrolled in the public registers. The form in Behar was nearly the same. It was

* *Note subjoined to the translation of the firman.* "The word *Kheraj*, in its primary specific sense, means the tribute paid by a conquered country, such as Persia after the Mahommedan conquest; and *Oshur*, which is the verbal noun of *Oshara*, means the tithe, or tenth part, of property taken by the conqueror from his own subjects, as by Omar from the people of Arabia. Thus in the *Sharhulwakayah* it is said, that Arabia, which is there described by its boundaries, and Busrah, and part of Arabian Irak, were *Oshuriya* lands; but the greatest part of Irak, and so forth, was *Kherajiya*, or tributary.

The Arabian tithe was payable more than once in a year according to the number of crops, and the like. But the Kheraj was of two sorts, *Mowuzzufah*, or fixed, and *Mocasimah*, or divided. The first was a certain assessment, like that made by Omar for part of Irak, to be levied from the province according to an estimate of its extent and fertility; but the second was a rateable proportion, as a fourth, a fifth, and the like, of the actual produce. At least so it is understood from the *Sharhulwakayah*, which contains a minute account of Omar's assessment, and much very curious matter."

not

not however unusual, in that province, to affix at the public cuchery an advertisement of the sale, directing all persons willing to purchase the land to deliver in proposals within three or four days. The custom can only be accounted for, in the idea of a property in the soil, derived from the zemindary tenure. It was chiefly practiced with regard to the smaller zemindaries; and under the authority of the aumil, or collector.

Secondly. Instances of sales of land by zemindars and talookdars, extracted from the records of the canoongoes.

Private sales by zeminoars and talookdars, under the former Government of the country.

1. Kismut of pergunnah Futteh-jungpore Soonderpai, sold by KUMAL CHOUDRY to KISHEN HURRY SIRCAR, dated the 1st Bysaak 1148 B. or A. D. 1741.

2 16 of the chowdrahy.

Toomar Jumma,	1,287 Rs.
Price, ...	3,301 Rs.

2. The village of Sereepore, in pergunnah Alafsing, sold by BULRAM SURMA to DOORGARAM SURMA, on the 5th Poos 1147 B. or A. D. 1740.

Jumma Toomary,	178	14	11
Price, ...	22	6	0

3. Moza Behlole, in pergunnah Mehlind, and Gokurn and Moktarpore in the same pergunnah, sold by RAJBULLUB and RAJCHUND to GHOLAM NUKSKBUND, in the year 1144 B. or A. D. 1737.

Jumma Tukseem, with imposts, ...	967	0	0
Price, ...	775	0	0

4. Moza Golah, in pergunnah Futteh-jungpore, sold by JYHURRY CHOUDRY to GOPEENAUT CHOUDRY, on the 13th Jeyt 1138 B. or A. D. 1731.

Jumma, ...	42	9	11
Price, ...	81	0	0

5. Tuppah

5. Tuppah Sundhar-kool in Selimabad, Sircar Futtehabad, sold by PERTAB NARAIN CHOUDRY to SHUMSUDDEEN CHOUDRY, Bysaak 1st 1131 B. or A. D. 1724.

Jumma, ...	189	6	10
Price, ...	700	0	0

6. Many of the constituent portions of the present zemindary of Nuddea, viz. Kismuts Ballunda, Belliah, Suntose and Aminpore, were purchased by the father of the present zemindar from the respective Choudries of those pergunnahs. The same remark will with truth apply to many other zemindaries.

In consequence of the above sales, the regular transfers and entries were made in the public registers of the state; and the bills of sale were recorded by the canoongoes. Many more might be produced, with no other difficuty than attends a research into old records. The following is an older instance than any yet produced. In the year 1094 B. or 1687 A. D. several villages and portions of the zemindary of GOPEE REHMUN CHOUDRY were by him sold to RAMNARAIN ROY. The descendants of the latter have still possession of the land acquired by this original purchase.

AURUNGZEB's permission to the English to purchase Cuddalore and other towns.

Firman of the Emperor FURUKHSEER, relative to the purchase of 38 villages near Calcutta.

Thirdly. The permission granted by the Emperor AURUNGZEB to the English to purchase Cuddalore and other towns.* The inference from this is a right of property, and the power of disposing of it. The firman from the Emperor FURUKHSEER in 1717, granted at Delhi on the application of the agents of the English Company. The terms of it, as far as they relate to the point in question, run thus: "The Company's factory is established in Calcutta; and "the sum of 1195 rupees 6 annas is annually paid on account "of the rents of the talookdary of Calcutta, Sootanutty and Govind-"pore, formerly procured from the zemindars; be pleased to

* See report of Select Committee of the House of Commons, in 1772. *Hasbooll-wookum*, No. 19, page 82.

"grant

"grant thirty eight villages more, situated near the former, at the "annual rent of rupees 8121 8 annas, which shall be regularly dis-"charged." The orders for the villages formerly purchased are confirmed as before; and we have bestowed the talookdary of the additional thirty eight villages, but let them purchase them of the proprietors." The *Husboolhookum* of the vizeer, in conformity to the above, expressly directs that the purchase of the thirty eight villages must be made agreeable to former precedent, with the consent of the proprietors.*

The Nazim JAFUR KHAN's purchase of a zemindary, as a provision for his grandson.

3. The following is an extract from a history compiled by order of Mr. VANSITTART, when Governor of Bengal. "JAFUR KHAN (then Nazim) knowing that upon the demise of the officers of the crown, that is to say, the Munsubdars and Omrahs, their effects were sequestered with the utmost rigour, with a view to provide for his grandson SERFRAZ KHAN, purchased the zemindary of the town of Moorshedabad, and Kismut Chunacolly, from MAHOMED AMAN the talookdar, with the produce of his jageer; and named it Assudnugur; and had it enrolled in the royal registers, and those of the canoongoes; that after the decline of his fortune, a pittance might be left from the profits of the land, after discharging the royal rents, for the subsistence of his descendants." A translation of this history, which contains much curious information, is published by Mr. GLADWIN.†

Firman of the Emperor AURUNGZEB, to MOHUMMUD HASHEM.

4. The firman of the Emperor AURUNGZEB (Appendix, No. 13,) is decisive as to the subject's having a right of property in the soil.

Remarks on JAFUR ALY KHAN's transfer to the Company of the rights of the zemindars in the 24 pergunnahs.

IN opposition to these authorities, the transfer of the zemindary rights of the zemindars of the 24 purgunnahs, by JAFUR ALY KHAN to the English Company, and their consequent dispossession, without any stipulation of an allowance to them, have been quoted.

* Vide report of the select committee in 1772. *Husboolhookum*, No. 28, page 88. *Malikan* is the term used in the original for *proprietors*. J. H. H.

† See the passage referred to in page 101 of the printed narrative.

But a precedent deduced from the practise of an usurper, raised to his station by English power, and established in their favor, at a time when all legal Government was subverted, cannot prove much. When CASIM ALY ceded Burdwan and other districts to the Company, he made over the rents of them only; and in defining the power, which the English were to exercise over Burdwan, called the zemindary of TILLUK CHUND, he directs that they shall keep the zemindars and tenants in their places.* And the firman executed by the Emperor SHAH AALUM, assigning to the Company the country of Ghazeepore, and the rest of the zemindary of Rajah BULWUNT SING, directs that the Rajah shall pay his rents to the Company.† Many other collateral facts and arguments might be here adduced; but the preceding authorities are decisive, I conceive, to prove that the zemindars had formerly a property in their lands; and that this opinion was not adopted on the suggestions of partial interested natives, since the Company's acquisition of the dewanny. An acknowledged right to dispose of lands by sale admits no other conclusion. Neither this, nor the right of inheritance, is mentioned in the zemindary sunnuds; yet the latter is indisputable.

Rights of zemindars and tenants reserved in CASIM ALY's cession of Burdwan.

And the Rajah of Benares directed to pay his revenue to the Company in the firman of the Emperor SHAH AALUM, respecting that province.

APPENDIX, No. 15.

Zemindary Inheritance.

Appendix, No. 15. Instances of zemindary inheritance.

THE following instances extracted from the canoongo records, and written many years before the present time, will prove the inheritance of the zemindars. Mr. GRANT, in his Analysis, explicitly admits it; but his account of the origin of several of the zemindaries differs materially from my information, which is taken from the most authentic documents I can procure.

* See translation of sunnud, in the Appendix to VERELST's state of Bengal, No. 47. The sunnuds for Midnapore and Chittagong are stated to have been in the same terms.

† See a translation of the firman in the second report of the select committee of the House of Commons, 1781. The words of the passage referred to are—"The aforesaid Rajah, having settled terms with the chief of the English Company, is according thereto to pay the revenue to the Company." J. H. H.

THIS

RAJSHAHY.

Rajshahy.

THIS zemindary consists of three principal districts, Rajshahy, Bhettoreah, and Boosnah; besides several smaller divisions. The zemindary of Bungachy, &c. which forms but a very small part of the whole, was originally conferred upon RUGHONUNDUN, the son of KAMDEO, a bramin, in the name of RAMJEEWUN, about the year 1707, in consequence of the neglect of the former zemindars to discharge their revenues. About the year 1711, RUGHONUNDUN, in default of legal heirs, acquired possession of the zemindary of Bhettoreah, on the demise of the former incumbent RANNY SERBANNY. In 1713 Rajshahy was annexed, in consequence of the services rendered by RUGHONUNDUN, in defeating and taking prisoner the former zemindar OUDINARAIN; who, on being refused a remission in his revenues for military services performed by him, had seceded to the hills with a considerable force. Boosnah was added on the death of SEETARAM, the former zemindar, who was in confinement for murder and rebellion. It is needless to specify the remaining progressive annexations. RAMJEEWUN, who long had the management of the zemindary, died about the year 1730; having previously adopted his grandson RAMKUNT, who succeeded immediately on RAMJEEWUN's death, and was afterwards confirmed by sunnud in 1733. The RANNY BHOWANY, his widow, is the present incumbent. Mr. GRANT asserts that the zemindary was first conferred on RAMJEEWUN in 1725.

DINAGEPORE.

Dinagepore.

THE first known zemindar of Dinagepore, or more probably the first ancestor of the present family, was SIRIMUNT CHOWDRY. His grandson, HURRAM, succeeded him, as it is asserted by adoption. SOOKDEO ROY, the eldest son of HURRAM, was his successor; and was confirmed in the zemindary by a firman from SHAH JEHAN, or SHAH SUJAH, dated the 11th Shaban A. H. 1061, or about 1650. A. D. RAMDEO, the eldest son of SOOKDEO, inherited the zemindary after his father's demise: he was in possession two years, without any sunnud. JAIDEO, his brother, succeeded him; but he dying

dying without issue, PRAUNNATH, the youngest son of the former zemindar SOOKDEO, obtained the zemindary; and was created a Rajah. He died at the close of the Bengal year 1129, or about 1722 A. D. RAMNAUT, his adopted son, succeeded him immediately on his demise; and obtained a firman of confirmation in the 6th year of MAHOMED SHAH, dated the 9th of Rubbee-ul-awul 1136 H. or about 1723 English. In consequence of a failure on his part to pay his revenues, several aumils were successively deputed to make the collections; viz. LALA OBERAM; next LALA KISHENCHUND; then LALA ROKUNCHUND; and lastly, RAMNAUT BUNDOJEE. Rajah RAMNAUT was the eldest son of a distant relation of PRAUNNAUT, who adopted him when he was six months old; his age at his accession to the zemindary was eleven years. RAJAH BYDENAUT, the eldest surviving son of RAMNAUT, succeeded to the zemindary. The present incumbent is RADHANAUT, the adopted son of BYDENAUT. He obtained a sunnud, dated the 21st July, 1780 A. D. Mr. GRANT, in his Analysis, asserts that the zemindary of Dinagepore was conferred by JAFFIER KHAN, like all other great zemindaries, towards the latter end of his Government, in the first instance on RAMNAUT. That he was supposed to have acquired great wealth by the discovery of buried treasure; and that he enjoyed the special privilege of administering internally his own districts, without being subject, like the other zemindars, to either hustabood investigations, or the immediate controul of a Mussulman aumildar.

Burdwan.

BURDWAN.

THE first origin of this zemindary may be traced to the year 1680; when a very small portion of it was given to a person named ABOO. KISHEN Baboo succeeded to him, and acquired an increase of jurisdiction. GUNNESHRAM and KISHENRAM, son and grandson of KISHEN Baboo, regularly succeeded. KISHENRAM was killed in an action with the rebel SOBAH SING; and JUGGUT RAM his son succeeded. He died about the year 1700. KEERUTRAM, or

KEERUT

KEERUT CHUND, his eldest son, became his successor; and obtained very large additions to the zemindary. He died about the year 1739; and was succeeded by CHITTER SEIN his son. On his death in 1744, TILLUK CHUND, the nephew of KEERUTRAM, was nominated zemindar. He was succeeded in 1770 by his son, the present incumbent, TEZCHUND. Mr. GRANT, in his account of this zemindary, asserts that it was first bestowed (but subsequently to the year 1722) on KEERUTCHUND.

NUDDEA.

Nuddea.

THE beginning of this zemindary may be traced to BOWANUND, and through his lineal descendants, GOPAUL ROY, RUGGORAM, and ROODER ROY, to RAMCHUND, who was concerned in an insurrection, and died in great distress. His brother RAMJEEWUN succeeded him; and the zemindary, on his death in 1719, fell by inheritance to his son, RUGGORAM. He was succeeded by his son KISHENCHUND; and he again by his son the present incumbent. The account given by Mr. GRANT is, that the zemindary was originally bestowed, in the beginning of this century, on RUGGORAM, a Bramin, descended from BOWANUND.

LUSHKERPORE.

Lushkerpore.

THE origin of this zemindary cannot easily be traced. Mr. GRANT states it to have been conferred, in the first instance, on ANOOPNARAIN; whereas by the records in my possession he was the sixth in descent from a possessor, who is said to have succeeded according to the custom of his forefathers. This zemindar, whose name I am not now able to ascertain, was succeeded lineally by PUCHTERAKA, RAMCHUND, NERNARAIN, PEEMNARAIN, and ANOOPNARAIN in 1719. The latter died about the year 1745; and the zemindary has since been divided amongst his descendants.

Other zemindaries might be traced to an era equally remote.

IT is needless to detail the origin, or inheritance, of any other zemindaries; though many more might be traced to an era as remote as those mentioned; and some to a much more ancient foundation. Mr.

And some to a more ancient foundation.

GRANT speaks of the *universally new creation of that necessary class of officers denominated zemindars in the course of* JAFER KHAN'S *vice royalty*. I know not the authority on which this remark has been made. That JAFER KHAN punished many of the zemindars for neglect in their payments, for delinquency, and some even without sufficient cause, by dispossession, is notorious; and their lands were annexed to other zemindaries. But these transactions will not justify the inference which may be drawn from Mr. GRANT'S remark, nor perhaps the remark itself. I have clearly shewn that the zemindaries of Dinagepore, Burdwan, Nuddea, and Lushkerpore, were founded before the vice royalty of JAFER KHAN. It was the same with Mahomed Shahy, Jessore, and many others. KISHENCHURN, the zemindar of Jessore, was one of the victims to JAFER KHAN'S cruelty; dying under the severity of the confinement in which he was placed by him. These documents also shew that the zemindars succeeded by adoption. The firman for the zemindary of Amberabad, issued by the present King, two years before the grant of the dewanny, as well as the sunnud of the vizeer, in conformity thereto, expressly states that the zemindary was conferred *according to the established usage of India*.

Succession of zemindars by adoption.

Established usage referred to in a firman for the zemindary of Amberabad.

J. SHORE.

APPENDIX, No. 16.

Appendix, No. 16. Questions to GHOLAM HOSEIN KHAN, and his answers, respecting the rights and privileges of zemindars, and other landholders.

QUESTIONS to GHOLAM HOSEIN KHAN, son of FUKHUR-OOL DOULAH, formerly Nazim of Behar, on the rights and privileges of landholders; and his answers. GHOLAM HOSEIN is the author of a much esteemed history, called *Siyur-ool-Muta,akhireen*.

Question 1st.—What is a zemindar? and what is a zemindary?

Answer.—The literal meaning of the word *zemindar* is *possessor*, or proprietor, *of land*; in the same manner as *Maldar* signifies possessor of property; or *Zurdar* possessor of money: but in its general accepted meaning it implies a proprietor of land who pays rent to the Emperor, or any other ruler, and is equally applicable to every landholder, whether possessing a greater or a less number of villages, or only a portion of a village. Land being a species of that property which is deemed transferable, in all countries

countries, the proprietorship of it may be obtained in the same manner as that of any other property of a similar nature, by gift, sale, or inheritance. The true and rightful proprietorship of land may be obtained by either of the three following modes; by purchase, with the mutual consent of the parties; by gift from the proprietor; or by inheritance.

Question 2d.—How is a zemindar appointed?

Answer.—According to strict right, no person can become the proprietor of land but by one of the three abovementioned modes; though by usage the Emperor, or his representative, being displeased with a zemindar on account of his contumacious and refractory behaviour, may displace him, and appoint another by sunnud in his room. The person so appointed is by usage considered as zemindar, and proprietor of the soil; though according to strict right he be not so. It is further to be observed, that since the decline of the constitution in the reign of FURUKHSEER, and the introduction of the farming system, at the recommendation of RUTTUNCHUND, when corruption pervaded every department of the state, the unprincipled zemindars, by ingratiating themselves with the aumils, or rulers, for the time being, distressed the inferior zemindars by every possible mode, until they were reduced to the necessity of selling their zemindaries to their oppressors; who thenceforward became, by virtue of usage, not of right, the acknowledged proprietors of them. Other zemindars, having desolated their lands by mismanagement and dissipation, were obliged by the ruling power to dispose of them to more prudent and opulent zemindars for the liquidation of their balances. The title of the purchasers of such land was considered good and valid. Towards the close of the reign of MOHUMMUD SHAH, during the administratson of RAMNARAIN and JANKERAM, and other Nazims of the Behar province, certain zemindars, by attaching themselves to these officers, acquired great influence; and either by force or under different pretences, unjustly possessed themselves of the estates of the inferior landholders; till at length becoming rich and powerful, through the connivance of the Nazim, who permitted

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these usurpations, they declared themselves the proprietors of the lands thus unfairly acquired. It was by the above modes that many zemindars of this province augmented their possessions. From being proprietors of a talook, they became possessors of a pergunnah; and from possessors of one pergunnah, they became possessors of many.

Question 3d—Has he any and what rights, or immunities?

Answer.—A zemindar enjoys no privileges from the ruling power, beyond those of a ryot; which are, that no oppression be practised upon him; that his person and property be not unjustly molested; that in case he improve his lands, duly discharge the dues of Government, and avoiding contumacy, prove himself on all occasions a well disposed subject, he be allowed nankar, and be shewed such other indulgences and favors as his fidelity and attachmay entitle him to.

Question 4th.—Whence are these rights and immunities derived?

Answer.—The zemindars possess no other rights or privileges than those above specified; and these have existed since the first establishment of a ryot and a hakim; and must continue to exist until their annihilation, whether the aumils, or farmers, pay attention to them or not.

Question 5th.—Is a zemindary hereditary?

Answer.—Whatever land a zemindar may have become the proprietor of, by any one of the three abovementioned modes, descends in the line of inheritance; since whatever is actual property, such as plate, houses, and other transferable effects, is necessarily hereditary; but whatever is not actual property, is consequently not of an hereditary nature.

Question 6th.—Can a zemindar succeed by inheritance without the sanction of the ruling power?

Answer.—If a zemindary be the actual property of any person, his heir has an undoubted right to succeed to it; nor is the sanction or permission of the ruler necessary; unless there be a disagreement among the heirs; or a doubt regarding the inheritance. In either of these cases, after adjusting the dispute, and ascertaining

ing the point of inheritance, the ruler allots to each of the heirs his due proportion of the inheritance. Since the declension of the Empire, it has been customary for the ruler for the time being to appoint a successor on the demise of the zemindar; and to bestow on him an honorary dress, &c. according to his rank. The person so invested pays a Nuzzeranah to Government, proportionate to his ability. The eldest son succeeds in the first instance, and after him the eldest of his sons; whose uncles and brothers have villages allowed them for their support according to their respective exigencies.

Question 7th.—Are there any and what instances in which a zemindar has succeeded by inheritance without the confirmation of the ruling power?

Answer.—Many of the former as well as present zemindars, having succeeded to their paternal inheritance without the express sanction of Government, continued to discharge the established revenue without molestation. This has always been the case with the zemindars of Bojepoor, Tirhoot, Bhettiah, Sircar Sarun, &c. Although the powers of the Emperors be unlimited and despotic, in so much so that no person can possess any thing without their consent, yet no instance has ever occurred of their preventing the regular succession to an inheritance, excepting when a zemindar had been guilty of disobedience or contumacy; in the former of which cases, a punishment was inflicted proportional to the offence; and in the latter, the delinquent was totally ejected from his zemindary, and an allowance of mallkanah granted to his helpless heirs; among whom, if there was a capable person, he was invested with the zemindary. I know of no person holding a zemindary contrary to the inclination of Government; though it is possible that instances of this kind may be found in places where the zemindars are refractory, and where their positions are difficult of access. If, by the term confirmation, it be asked whether such as is found upon mochulkahs, cabooleats, &c. be requisite, I reply that no heir, on succeeding to his inheritance, was ever known to prefer a petition to the ruler to authorize his succession.

Question 8th.—Is there any and what instance in which the ruler

ler obstructed the succession of a zemindary, and give it away from the legal heir to another person not the heir of the deceased zemindar?

Answer.—I know of no person so unfortunate: nor can it be supposed possible, that the ruler should set aside the rightful heir without a sufficient cause; such as rebellion, notorious profligacy, or incapacity. In the former of these cases, he should be totally ejected; and in the two latter, he should be dispossessed of the management of the zemindary; and should have a malikanah allowed him for his maintenance.

Question 9th.—Is a zemindary of one kind? or of many? and are there separate and distinct privileges attached to each kind?

Answer.—There is no difference in zemindaries; though there be in the rank of the person holding them. Many zemindars, who had been originally independent, Rajahs and Maharajahs, were subsequently enrolled among the grandees of the Empire; and had titles of *Punj-Huzary*, *Shush Huzary*, and *Husht Huzary*, bestowed upon them, exclusively of Jageers, according to their ranks: besides which they were entrusted with the transaction of the more important affairs of state. Of the above description, were Maharajah JUSWUNT and his ancestors, the chiefs of the Reoty tribe, Rajah JYSING and his ancestors, the chiefs of the Chittoor tribe; and the Rana, the chief of the Seroodoga tribe. Other zemindars of inferior rank, including those who were subject to the payment of revenue, such as most of the present zemindars of Behar, in case they improved their lands, and discharged the dues of Government with punctuality, and were guilty of no fraud or treachery towards the state, were allowed Naukar; and had different degrees of distinction established amongst them; but if they observed an opposite conduct, the Royal forces were sent to reduce them to a proper sense of their duty. In the event of their submission and reformation, their offences were pardoned; and they were again received into favor: but in case they continued refractory, the ruler punished them according to their deserts; and

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in instances of extraordinary criminality expelled them from the country, and gave their possessions to others more deserving of them.

Question 10th. Can a zemindar give, sell, or alienate from the public assessment, any part of his land, without application to the ruler previous to such gift, sale, or alienation?

Answer.—If he be the real proprietor, he may tranfer his zemindary to whosoever may be the object of his choice, without the sanction or approbation of any one; but since he is liable to the payment of revenue, and the ruler has a right to demand it, is incumbent upon the zemindar to act in such a manner that no injury occur to the rights of Government. If a deficiency in the revenues should be the consequence of any alienation of land, the zemindar must be responsible for it. The land granted by the ruler, or the zemindar, to indigent persons, was usually of the uncultivated arable kind; and not what was actually in a state of cultivation. Of the first of these kinds, there is such abundance, that if grants without number were to be made, there would still remain a large surplus for cultivation. It would however be for the advantage both of the giver and receiver, and an act proper in itself, were the sanction of Government to be obtained to all alienations from the public assessment.

Question 11*th.*—Supposing a zemindar to have alienated, given, or sold land, without the knowledge of the ruler, was it usual and just in the latter to resume it?

Answer.—Whilst the country was in a flourishing state, and the zemindars in prosperous circumstances, and the revenues regularly discharged, Government never resumed such alienations; nor could the supreme power have done it without a manifest injustice to the proprietor of the soil. The extent of the uncultivated arable land was not at that time so great that it would have required ages to bring it into cultivation; but as no person concerned himself about it, it is not surprizing that this kind of land lay neglected. Even in these days were cultivation to be extended to the utmost, the present quantity of land in cultivation would be increased in

a tenfold degree. In cases however, when a refractory and turbulent zemindar had made grants of villages or extensive tracts of land to his relations, or immediate dependents, the ruler, on ejecting him from his zemindary, might resume the grants made to such persons, if he deemed their removal necessary or proper.

Question 12th.—Supposing a zemindar to have forfeited his zemindary by rebellion, contumacy, or default of payment of his rents, was it usual for the ruler to give the zemindary to the heirs of the ejected zemindar? or to any other person?

Answer.—Whenever a zemindar was ejected for rebellion, or contumacy, his zemindary was given to some one of his relations, who was capable of conducting the business, and discharging the dues of Government. In default of such a person, it was through necessity bestowed upon a stranger, possessing the requisite qualifications, who was in duty bound to make a provision, by malikanah or otherwise, for the maintenance of the family of the ejected zemindar.

Question 13th.—Are the zemindars, by the laws of the Empire, accustomed to receive any fixed allowances from Government?

Answer.—The principal zemindars received tithes, and jageers according to their rank; whilst those of an inferior degree, in the event of their being obedient to the orders of Government, attentive to the improvement of their lands, and punctual in the payment of their revenues, received Nankar proportionate to their exigencies, besides which they had no other allowances. The Nankar was deducted from the revenue payable to Government. Afterwards, on the decline of the Empire, villages were granted for Nankar, in lieu of money, as will appear on a reference to the records of the canoongo office.

Question 14th.—Did they receive Nankar, and what was the Nankar?

Answer.—The nature of Nankar has been explained in the preceding article. It depended upon the extent of a zemindar's lands and revenue; and the amount of it was regulated by his attention to the improvement of the country; and his punctuality in discharging

discharging the dues of Government: consequently, all did not receive this allowance in the same proportion.

Question 15*th*.—Did they receive malikanah? and what is the nature of malikanah?

Answer.—Malikanah in Behar is an allowance in money, or land. If in the former, the rate is ten per cent; if in the latter, 10 bigahs in 100. I know not the proportions established in other parts of the country. Zemindars who were incapacitated, and whose lands were khas, were allowed malikanah: but this indulgence was not deemed necessary to such as held the management of their own zemindaries.

Question 16*th*.—Were not allowances formerly made to the zemindars under the head of muzcoorat? and what is the meaning of muzcoorat?

Answer.—Muzcoorat was not an established allowance; nor had any one a right to it. The cucherry charges, and other necessary expences incurred by the aumils who superintended the collections, were termed *Muzcoorat (specified items)* from the circumstanee of their being entered in the accounts. Neither the zemindar, or any one else, received an allowance under this head; since it was a term for the cucherry expenses of a khas collection. The amount of these charges was deducted from the gross receipts, and the remainder only carried to the account of the collections; in order that the expense might fall upon the renters, and not stand a charge upon Government. It was not unfrequent however for rapacious aumils to make arbitrary exactions from the zemindars, and the ryots, under this head, over and above the actual cucherry expense.

Question 17*th*.—Are the allowances made to the zemindars, under the head of nankar, malikanah, or any other denomination, considered as personal? or as granted for services performed?

Answer.—Malikanah is the unalienable right of proprietorship: but nankar depends upon fidelity and attachment to the state, and a due discharge of the public revenues. Those who were deficient in these points did not receive it. This allowance obtained

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its appellation of nankar from "Nan" signifying bread, and "Kar" employment; importing that those who render service are entitled to a subsistence. Almost all denominations, excepting alms, being in consequence of some service performed, are not of a personal nature. As for instance, if any one render essential service, the ruler will, from a principle of gratitude, bestow upon him wherewithal to place himself and his family in independent circumstances; such as an altumgha, ayma, or muddudmash; all of which are hereditary.

Question 18*th*.—If a zemindar was ejected from his zemindary, did he forfeit his nankar?

Answer.—If a zemindar commit a fault of so heinous a nature as to justify his being deprived of his right and property, how can he be left in the enjoyment of his nankar, which is expressly the reward of service? It would undoubtedly be taken from him.

Question 19*th*.—When any land was given as altumgha, jageer, muddudmash, &c. out of a zemindary, did the proprietor of the land receive malikanah, from the person receiveing the grant?

Answer.—Malikanah is the right of the proprietor of land; and therefore if he received it under the ruler, how could the altumghadar, jageerdar, &c. withheld it? Whatever be its amount, it is indiscriminately allowed by the one party, as by the other.

Question 20*th*.—A zemindar is bound to pay the amount of his revenues to the ruler? By what criterion were they settled anciently?

Answer.—A specific rate was never fixed. In the reign of Akber, and for a long time after, the rents were paid in kind. This mode was highly favorable to the ryot, and consequently productive of cultivation. But the farming system, introduced by Furukhsehr, had an opposite tendency. On the decline of the Imperial authority, many of the Omras in power, such as the Nuwab Muhabut Jung, Nazim of Bengal, and Zehinah Khan, Nazim of Lahore, consulting the prosperity of the country, cherished the ryots and encouraged cultivation; while others, like

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BOORHAN-OOL MOOLK, whose veiws were directed to a different object, oppressed the landholders of every class, and rendered the country desolate. Although the exact quantum of Government's share of the crop be not recorded in the Ayeen Akbery, yet it may be collected from that work, that the quantity was regulated by the produce; and that no more than the stipulated amount was exacted. At the introduction of farming, the khalsah aumils gave in proposals for their respective pergunnahs; whereupon pottahs and cubooleents (mutual engagements) were exchanged between them and Government; and agreeably to those engagements the amount of the stipulated revenue was discharged: unless the aumil stated heavy losses from the severity of the season. In that case the truth or falsity of his representation was ascertained by the deputation of an ameen, agreeably to whose report a remission was granted, or withheld, according as the claims of the aumil seemed well or ill founded. The aumils made the collections by no prescribed or settled rules. Some conducted them by open violence and oppression; some by fraud and cunning; and some with only a small degree of rapacity: though all of them collected sufficient to answer the demands of Government; to defray their immediate expenses; and to provide a fund against future exigencies: so that in fact each person exacted whatever he chose.

Question 21*st*.—Did they anciently execute any cubooleents for a specific sum?

Answer.—The crories, after ascertaining the harvest to the satisfaction of the ryot, divided it between him and Government agreeably to the terms of stipulation. If the ryot voluntarily tendered the value of Government's share in money, at the market price of grain, the crory could not refuse to receive it. When the mode of receiving the revenues in kind was superseded, by the introduction of the farming system, the aumils entered into engagements for the payment of a specific sum. If the amount had not been specified, to what end were leases and cubooleents granted and executed? The business however was conducted in such

a manner that the aumil derived a profit, at the same time that the zemindars and ryots enjoyed a competency. Towards the close of the Soobahdary of MUHABUT JUNG, the zemindars of Behar, in consequence of the supineness of Rajah RAMNARAIN, obtained the management of the collections; and entered into annual engagements for the revenues, which they with difficulty fulfilled in the course of two years.

Question 22d.—Was the zemindar bound by any and what rules in collecting the rents from the ryots?

Answer.—Heretofore the ryots and zemindars divided the harvest between them in equal proportions. The rights of the ryots were by these means preserved; and their happiness and ease consulted. But for 17 or 18 years, the renters, actuated by a variety of motives, have laid a general assessment upon the ryots, equal to the amount required, according to their own calculations, to enable them to fulfil their engagements; and if this proved inadequate to the object proposed, including their own profits and expenses, they added a further assessment, until they obtained the sum required; without any regard to the capacity of the country, or the ability of the ryot. This is the only practise I am acquainted with, or have ever heard of; excepting indeed that from the time of AKBER, until the reign of BUHADOOR SHAH, the rents, which were generally received in kind, were collected from the ryots conformably to their engagements; and according to the nature and extent of their land. If the ryot preferred paying his rent in money, it was in his option to do so. Government's share of the crop was in such case valued at the current market price of the articles produced.

Question 23d.—What proportion of the produce did the ryots pay to the zemindar, or aumil?

Answer.—What power have the helpless ryots to give any thing to the zemindar? Their whole hope is centered in being allowed to receive their own rightful share; which is half, or something less than half, of the produce. The remainder the zemindar, or aumil, appropriates to the dues of Government, and to his

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own subsistence. In the early part of the Company's administration, when the zemindars possessed unlimited authority, they usually oppressed the ryots for the payment of the revenue, which was then very heavily assessed; in so much that the ryots did not receive even a fourth of the produce. In those days the sole object of the renters was to complete their engagements, and obtain an exorbitant profit. Afterwards, when the country became desolate, they were obliged to rest contented with paying the stipulated revenue, and deriving a sufficiency for their own immediate subsistence, and this is at present the case in many places. An over-assessment ruins either the renter, or the country; or perhaps both; since the former, after levying heavy and ruinous exactions upon the latter, must still be unable to fulfil his engagements: the consequence of which must be imprisonment and ruin. Though half of the crop be strictly the ryot's due, yet he thinks himself fortunate if he can get 7 out of 16 pusseries of the produce. But how is it possible that he should receive even this quantity? Since the renters, without any previous knowledge of the capacity of a district, enter into engagements for more than its actual produce; and are in consequence compelled, through necessity, to make up the deficiency by every species of exaction upon the ryot. The cultivation of of the country might however be restored, were the cultivator allowed his just proportion of the produce; and though restoration of this right to him might be attended with a temporary loss to Government, it would ultimately operate to its benefit.

Question 24th.—Was the proportion fixed? and if it was, by what law?

Answer.—The proportion in well cultivated land is established at half the produce, as above stated: but where the land is poor, the proportion depends upon the terms that the cultivator may be able to make with the renter.

Question 25th.—Have any and what alterations taken place in this proportion? and by what authority and usage?

Answer.—The original proportions have been specified above.

I shall therefore here state the causes of the subsequent deviations. Among these the principal was the adoption of the farming system; which was, as it were, selling the ryots and the country to the farmers; and authorizing every species of rapacity and oppressson; since the sole objects of the farmer were to fulfil his engagements to Government, and replenish his own coffers. His engagements bind him to pay a certain sum to Government: in every other respect he is left at liberty to act as he thinks proper. His first request is, that no complaints against him from the ryots or others be attended to. This concession is usually granted; and as usually abused. I have seen with my own eyes hundreds of ryots, with ploughs upon their shoulders, come to complain against the Aumil; but no one listened to their representations: and hence it is that the country is reduced to its present state. Whoever possessed power, used it as he pleased. In the time of MUHABUT JUNG, the farmers did not make any exorbitant demands upon the more powerful zemindars, from an apprehension, that the opposite conduct might create disturbances, which it would require more than double the amount of the revenues to quell. It was then that the zemindars, by taking from the ryots no more than was just and proper, kept their lands well cultivated; and after liquidating the demands of Government, were enabled to live in some degree of state and consequence. But on the accession of CASIM ALEE KHAN, they were entirely subverted; and the jumma which his aumils collected from the pergunnahs, instead of being the regular produce of the country, arose from the plunder of the ryots. The officers employed by the Company, on their accession to the deewany, finding the abovementioned jumma inserted in the accounts, in order to save their own credit, continued the assessment at that standard; and the aumils were of course compelled to realize it; though the ruin of the country was the inevitable consequence. Mr. GEORGE VANSITTART, at the complaint of the ryots, established the share of the produce receivable by Government at 9-16ths; and that receivable by the ryots at 7-16ths; and these proportions are still nominally preserved; though, in some

places,

places, owing to the want of sufficient assets for the sudder jumma, the cultivator receives less than his due proportion: the renter of the district, provided he can contrive to fulfil his engagements, being perfectly indifferent in regard to the welfare of the ryot, or the improvement of the country.

Question 26th —What is a chowdrahy? and what is the difference between a chowdry and a zemindar?

Answer.—Many of the principal landholders of Behar were denominated chowdries; as for instance, BISHEN SINGH the grandfather of NARAIN SINGH, the zemindar of Seris Cotumba. In the time of AKBER and his successors, the crories, in obedience to the orders of the Emperor, went to Court. Such among the zemindar's relations as possessed abilities, the Emperor, after satisfying himself on that point, nominated to the management of particular districts; and by conducting the business to his satisfaction, they obtained an allowance of nankar, and received the appellation of *Chowdry;* signifying Chief, or Director. Thus the superintendents of the Customs are denominated chowdries, because it is their duty to superintend the business of this department. In latter times, those zemindars who particularly distinguished themselves by their attention to the ruler, and by the good management of their district, obtained by common consent the title of chowdry. There is no other difference between a chowdry and zemindar than what is here stated. A chowdry has no rights or privileges beyond nankar and malikanah; the former depending on his retaining the management of his district, and the latter on his losing it.

Question 27th —What is a talookdary? And what is the difference between a talookdary and a zemindary?

Answer.—The proprietor of 10 or 15 villages, or even of a less number, is called a talookdar. The word *Zemindar* is a general term, applied to all landholders, whether possessing an entire pergunnah, or not; or only 10 bigahs of land. In this respect they are all equally zemindars. The only point, in which there is a difference among them, is in regard to rank and authority,

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Question 28th.—Did you ever hear of any instance, in which the King, or Nazim, purchased lands of a zemindar? And for what purpose? Name the instances?

Answer.—I never heard of any Emperor that had bought land of a zemindar, except AURUNGZEB. In fact there is little occasion for this practice; first, because the Emperor considers himself the Lord and Master of the country; secondly, because the revenues, which constitute the value of land, are paid to him; and thirdly, because his will is law. If however he propose to erect a mosque, or establish a cemetry, he on such an occasion will undoubtedly purchase land for that purpose; because the tenets of ISLAM prohibit the celebration of divine service, or the interment of the dead, in places oppressively acquired. AURUNGZEB, whom nature had formed for deception, with a veiw to wipe off the infamy of imprisoning his father, and murdering his brothers, and to give a proof of his moderation and morality, purchased the pergunnahs of Loondy Paulun, &c in the vicinity of Delhi, in the idea of deriving his subsistence, and supplying his other personal wants, from a fund so fairly and honorably obtained. When the neighbouring zemindars observed the inclination of their sovereign, they presented him with many portions of villages in free gift. These, together with the former, obtained the name of *Surf Khas*, from the purposes to which they were applied; but the purity of them was subsequently contaminated by FURUKHSEER, who added to them the pergunnahs of Murbut and Baghbut, which he had possessed himself of by injustice and oppression.

Question 29th.—Why did the King, or Nazim, purchase lands? Since he was the lord of his country; and might therefore have taken them by virtue of that capacity?

Answer.—The Emperor is not so far the Lord of the soil as to be able, consistently with right and equity, to sell or otherwise dispose of it at his own mere will and pleasure. These are rights appertaining only to such a proprietor of land as is mentioned in the first and second articles. The Emperor is proprietor of the revenue issuing out of the territory under his authority; but he is

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not the proprietor of the soil. Hence it is that when he grants aymas, altumghas, and jageers, he only transfers the revenue from himself to the grantee.

Question 30th.—Do you know any and what instances, in which zemindars have been ejected before the year 1172 Fussily? If you do, name them, and the cause of their ejectment.

Answer.—Rajah MOKUND SING, the zemindar of Ramgur, having been subdued by Major CAMAC, TAUJ SING, one of his distant relations, succeeded him in the zemindary; and carried off his women by the agency of the English troops. On TAUJ SING's death the zemindary devolved to his son PURSNAUT, who is since dead; but the name of his successor I know not. Exclusive of the above, there does not appear, since the Nuwabship of MUHAMUT JUNG to the present time, to have been any instance of an ejectment of a zemindar. Some few indeed have been put to death for rebellion, &c. but their heirs were permitted to succeed to their zemindaries. Others, such as Rajah SOONDER SING and PEHULWAN SING, whilst acting in the double capacity of zemindar and aumil, after oppressing the inferior zemindars under their authority, purchased the lands of some at an inadequate price, and obtained those of others solely by the influence of their power. The former of these persons possessed himself in the above mode of the whole pergunnah of Sheherghauty; which was however afterwards restored in the time of CASIM ALY KHAN, to GHOLAM HOSEIN, the nephew of AZEEM KHAN, the former zemindar of it. In the same manner, CHYNPOOR SASRAM, the unjustly acquired zemindary of PEHULWAN SINGH, was transferred to the heirs of the original proprietor. In some few instances, where there was no surviving heir capable of managing the business, the most eminent person upon the spot supplied his place and considered himself in the light of proprietor.

Question 31st.—What is the difference between a Raj and a zemindary? if there be any, specify it; and all the rights and privileges of a Raj.

Answer.—*Raj* signifies kingdom, and *Rajah* king. The Hindoo kings of Hindoostan were called Rajahs; and those among them

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who possessed extensive dominions, Maharajahs. But when the Mahomedans conquered this country, and assumed the reins of Government, this title gave place to that of Sooltan, or Emperor. The conquerors, however, no less from motives of policy than regard for the honor of the subdued Rajahs, after enrolling them among the Nobles of the Empire, confirmed to them their ancient titles; and in addition thereto bestowed upon them the honorary distinction of *Shush Huzary*, and *Hufi Huzary*, with suitable jageers annexed. The title of Rajah was in those days confined to persons of the above description; such as the chief of the Rathore and Kuchooa tribes, and the Rana of Seesodya, whose ancestors were in the first rank among the rulers of Hindoostan.* Some time after other Hindoos in high stations, as for instance TOORUN MUL and BURBUL, the former the minister, and the latter one of the nobles possessing the confidence of AKBER, obtained the title of Rajah; which was also subsequently granted to the dewan of the Khalsa or Exchequer, and of the Tun, or assignments. Afterwards, on the decline of the Empire, it was bestowed upon the dewan of the principal grandees; as for instance upon RUTTUNCHUND, the dewan of COOTUB UL MOOLK, in the reign of FUROOKHSEER, and upon RAMNARAIN, JANKY RAM, and NEWUL ROY. At length MUHABUT JUNG and HYBUT JUNG took upon themselves to bestow it upon SOONDER SING and BISHEN SINGH, and at last many of the powerful zemindars enacted themselves Rajahs by their own authority, and were acknowledged as such by the world at large. A zemindar has been described in article the first. He is totally distinct from a Rajah. The latter, being a Sooltan, possesses no immunities; and with respect to duties he is bound by the same as a Sooltan. The dignities of Sooltan and Rajah are mentioned in the historical and religious books both of the Hindoos and Mahomedans.

Question 32d.—What is a yehtimam? specify its nature.

Answer.—The literal meaning of the word *Yehtimam* is various. In one sense it signifies *enduring anxiety*; implying, that whoever

* See RENNELL's memoir. Introduction page 134.

may

may be apppointed to any employ is anxious about his trust, to the end that he may not lose it, or incur the displeasure of his superiors. This interpretation, however little satisfactory, is the only exposition that can be given on the present occasion. But whether or no any office actually exist under this appellation, by the authority of the sovereign, I am not informed, either by report or in the course of my reading.

Question 33d.—What are the powers, privileges, and business of an Yehtimamdar?

Answer.—What rights or privileges can an office, that appears never to have existed, possibly possess?

Question 34th.—Is a Yehtimamdar appointed by sunnud, or otherwise?

Answer.—If there be an office of this kind, the person holding it ought certainly to have a sunnud; since possession of such a deed seems essential to persons exercising authority. Some officers however are invested in employments by the mere donation of an honorary dress.

Question 35th.—What is the difference between an Yehtimamdar and a zemindar?

Answer.—The answer to this question is implied in the answers to the 23d and 33d.

Question 36th—What is a crory? Has he any and what privileges? And whence does he derive them?

Answer.—When the Emperor AKBER, after distributing his empire into soobahs, sircars, and pergunnahs, and after measuring the land and ascertaining its produce, had arranged the territory under three kinds, the first for the use of the Khalsa, and the other two for jageers, aymas &c. and had valued the produce in daums at the rate of 40 to a rupee, he very wisely appointed an aumil to the superintendence of an extent of country yielding one crore of daums, and hence the appellation of crory took its rise. This officer received a fixed allowance from court, according to his merits, for himself and his umlah; besides which he had no other rights whatever; excepting that in so far as he discharged his duty with fidelity

fidelity and uprightness, he rose in proportion to rewards and honors, even to the dignity of a grandee of the Empire.

Question 37th.—Does an yehtimamdar, chowdry, or crory, receive any allowance in land or money? and how much?

Answer.—The yehtimamdar is out of the question; and with respect to a chowdry and crory, I have before observed, that the former is allowed an established nankar in money from the produce of his pergunnahs, and that the latter receives a monthly salary. Instances no doubt may have occurred of crories, that have risen to honors and obtained grants of jagoers and altumghas.

Question 38th.—What are, and what were, the denominations of the several officers employed in the management and collection of the revenue? Name them all, with their respective occupations and privileges?

Answer.—The institutes of AKBER continued in use until the time of BEHADER SHAHG during which period the country was in a high state of cultivation, and the ryots were in the full enjoyment of the blessings of peace and society. Agreeably to AKBER's arrangements, the following officers were appointed to each crory-ship. One aumil (or crory); one noveesindeh (or paiskar); one khuzanchy; two jureebkush, to measure the land in cultivation; one zabit; one tuppehdar; and one upright moonsif, to the end that after the measurement of the land, and the ascertainment of the crop, shall have been fairly and truly made, without the sacrifice or usurpation of the rights of either the ryot or the state, he might separate Government's proportion of the produce from that of the ryot, according to the terms of stipulation; one mohurir, for the purpose of taking an account of the land and crop, and of the adjusted proportion of the produce; and lastly, a number of meerdehs, according to the extent of the district, with ten peons associated to each; the word *meerdeh* signifying *the head of ten.* On the commencement of the farming system, such mehals as still continued khas had the following officers appointed to them; one aumil, one paishkar, one noveesindeh wasil baky, one noveesindeh waz kham, one seah-novees, one etlak-novees, one serishtehdar of

of the bukhsheegury, and one khuzanchy; besides which there was a seebundy allowance for horsemen and peons. The duty of the paishkar, after informing himself generally of the business, by examining the accounts of former years, and the assets of the present, was to make the settlement of the district; to keep a summary of all transactions; and to superintend and control the accounts of the subordinate officers under him. It was the duty of the seeah-novees to keep an account of the daily receipts of revenue from each village; and afterwards to draw out a general abstract of each day's collections. Of the kham-novees it was required to enter the sums daily received and expended; to adjust the ursuttah, or monthly treasure accounts; and to draw out a general account of receipts and disbursements for the whole year. The wasil baky-novees was enjoined to take an account of the receipts and balances of the several renters, and to compare them with the statement of demands upon each. The duty of the etlaknovees required him to issue orders for the payment of revenue, and for other purposes; and after ascertaining from the officers stationed in the several mehauls the amount of peon's wages received, to allow three-fourths to the peons, and to bring the remainder to the credit of Government. To the serishtahdar of the bukhsheegury it was enjoined to draw out a statement of the allowances of the several officers; and to keep a register of all appointments and dismissions. Sometimes a paper, containing the number and wages of the several officers to be employed, was prepared at court, and delivered to the aumil; and some times part of the officers were appointed from court; and the nomination of the remainder left to the discretion of the aumils. Where the mehals were let in farm, the number and appointment of the umlah rested entirely with the farmer.

Question 39th.—If a zemindar have no heir, has he a right to adopt one?

Answer.—Adoption is in use among such Hindoos and Mahomedans as have no children of their own. The ceremony which the former observe on this occasion is termed *holding a Ras.* The child to be adopted is delivered over by its parents, of their own

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free will, to their kinsman, who makes the adoption; and as the father formally renounces all further claim to his child, the latter from that moment ceases to have any dependence on his parents, and becomes in fact the son and heir of the adopter, to whose property of every kind he is the lawful successor. A Hindoo is at full liberty to act as he thinks proper with respect to adoption; and no person has any power to prevent him. With Mahomedans the case is somewhat different; for though they be allowed to adopt, yet the child adopted posseses not the right of inheritance; and the other rights appertaining to a son by blood. If however the adopter make over his property to him by a deed of gift, and put him in possession of that property during his own life time, in such case he may become the possessor of the adopter's property.

Question 40th.—Has a person so adopted a right to succeed to the zemindary? and whence is that right derived?

Answer.—In the case of a Hindoo, the rights of the person adopted, according to the Shaster, are the same as those of the adopter; but in the case of a Moosulman, the former has no right to any part of the property of the latter, beyond what he may have received from him during his life time.

Question 41st.—Is not the approbation of the ruler necessary to confirm the succession of an heir by adoption to a zemindary?

Answer.—As adoptions are generally made to alleviate the distress of parents who have no issue of their own; and in order that the female part of the family, in case of accidents, may have some person to look up to; and as the interests of Government are not injured thereby, the consent of the ruler is not absolutely necessary; but if there be any grounds for an apprehension, that the person adopted may hereafter meet with opposition and trouble from the enemies of the family, it will, under such circumstances, be prudent to report the case to the ruler, and obtain from him a sunnud in favor of the adopted person. A son by blood and a son by adoption, with respect to Government, are the same. The former, if he be a capable person and worthy of trust, will be employed; and the latter, in case he be of the opposite stamp, will not be trusted.

Question

Question 42*d*.—What is a ryot? and how many kinds of ryots are there?

Answer.—All who reside within the limits of any person's territory are that person's ryots. Ryots are distinguished into different classes, according to the pretensions of the individuals composing them; and each class is treated agreeably to its particular rank in the general distribution. Some are chiefs of tribes; some noblemen; some men of letters; some merchants; some follow the profession of the pen; whilst others are artificers, mechanics, tradesmen, servants, porters, labourers, husbandmen, &c. It is needless to specify the particular duties of these different persons, since they are so universally well known.

Question 43*d*.—What are the rights and privileges of a ryot?

Answer—The duties of a ryot are, to be submissive to his superiors; to execute the business entrusted to him; to be well inclined towards his ruler; to speak well of him; and to assist him in any emergency to the extent of his ability. On the other hand, it is incumbent on the ruler to consider the ryots as entrusted to his care by providence; to esteem them in the light of his own children; to protect them from oppression; to feel and participate their miseries; and above all to regard them with an eye of benevolence and kindness. Such a conduct cannot fail of conciliating their affection, and gaining their esteem. In proof of this I need only observe, that in the commencement of the administration of Meer Jafer Khan, when the King and Mohummud Cooly Khan invaded the province of Behar, the body of the people, recollecting the regard which former sovereigns had shewed for the welfare of the inhabitants of those dominions, and considering his Majesty as descended from the same benevolent family, espoused his cause, and interested themselves in his behalf; but when they saw that from his supineness and inattention, he unconcernedly suffered his troops to ravage the suburbs of the city of Patna, and the country around, and to plunder the inhabitants of their property of every kind, and alarm them for the safety of their women; and saw at the same time that the English forces, which marched across

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the country, observed, in every respect the opposite conduct; they reversed their sentiments, and sincerely wished well to the cause of the English: and in the end the English were successful.

Question 44th.—What are the rights of a zemindar, or talookdar, over the ryots? and vice versâ?

Answer.—The same as those set forth in the preceding article: a zemindar, and also a talookdar, being a kind of a ruler; and the inhabitants of his zémindary or talook being, as it were, his subjects. There are however some other duties obligatory on each of the parties; as for instance, the ryot is bound not to be remiss in cultivating his land, and discharging his revenue; and it is the duty of the zemindar, or talookdar, on the other hand, to adhere to the terms of his engagements, and not to harass and oppress the ryots; or make any exaction from them beyond the amount of the stipulated revenue.

Question 45th.—What is the nature of ryoty puttahs? Are they of different kinds or not?

Answer.—The form of a puttah is invariably the same. In substance however they differ, with respect to the stipulations, which are regulated by the well or ill-cultivated state of the land.

Question 46th.—Who is the proprietor of the soil? The king, the zemindar, or the ryot?

Answer.—He who obtains land by gift, sale, or inheritance, is the proprietor of it; and he whose ancestors have been in the possession of it from generation to generation, beyond the memory of man, is to all appearance the owner of it.

Question 47th.—How many different authorities subsist, between a ryot, and the head officer of Government in a district?

Answer.—The names of the several officers in the time of Akber and his successors, until the days of Muharut Jung, have been specified above. As the officers now employed are not the same in every district, to enumerate them all would be an endless undertaking. Wherever the superior officer is an intelligent and upright man, all authority centers in his

own

own person; because those under him act by his orders. Hence in such a district there appears but one authority. But where the supreme officer is evil disposed, oppressive, indolent, or deficient in understanding or experience, his dewan, his mohurirs, his hircarahs, his peons, his slaves, his very domestics and menial servants, in short all persons about him, assume authority, and exercise it uncontrolled, in the plunder of the ryots. These are oppressed first by the peons; who in their turn are oppressed by the jummadars; secondly, by the wahdahdars, who are stationed throughout the country; next by the mohurirs and paishcars; thereby the aumil, dewan, and all the relations and dependants; and last of all, by the superior officer himself.

Question 48th.—Does a zemindary sunnud, like an altumgha sunnud, specify that the property it conveys is hereditary?

Answer—I have before stated that a zemindary is rarely held by sunnud; but usually by right of property, which is in its nature hereditary. If however a zemindar shall have been ejected from his zemindary for a most atrocious offence, and the ruler, in a spirit of injustice, or from motives of indignation, shall have set aside the innocent heir, who on a principle of equity is not punishable for the offences of his father, and have granted away the zemindary to a stranger, under a sunnud specifying that it is to descend from father to son in lineal succession, the heir of such stranger will become the proprietor of the zemindary, and may take possession of it accordingly: but if such a clause be not inserted in the sunnud, only the person receiving the zemindary will enjoy it; after which it will be at the disposal of the ruler.

Question 49th.—Is it necessary for the heir of an altumghadar to obtain a sunnud from the ruling power, in order to render his title valid?

Answer.—The clause "*from father to son in lineal succession,*" is inserted in an altumgha sunnud, in order to secure the grant to the posterity of the original proprietor. Hence it is that the altumgha firmans issued in the time of AKBER, JEHANGEER, SHAHJEHAN, and AULUMGEER, are still in force. Besides an altumgha

is a free gift; and it is repugnant to the feelings of a noble and generous breast to resume what has once been voluntarily bestowed.

Question 50th.—What is the meaning of the term *Khidmut* in a zemindary sunnud? Does it not imply that the zemindar is liable to be ejected at the pleasure of the ruler?

Answer.—I have before explained that a zemindary sunnud is generally granted on the ejectment of a zemindary for some atrocious offence. In such case, as the new zemindar does not succeed to an inheritance, but obtains a zemindary on the simple *fiat* of the ruler, the obligation of service, under such circumstances, will certainly be required; to the end that if he fail in this point, he may be set aside; for if an hereditary proprietor may be ejected from his inheritance for an offence, why should this person be exempt from the like consequence?

Question 51st.—If so, whence has it happened that zemindars succeed by inheritance?

Answer.—A zemindar holds his zemindary by virtue of inheritance; and unless his conduct be exceptionable, the ruler will not unnecessarily molest him; but if he commit an offence, he will undoubtedly be punished, even to ejectment from his zemindary: and the ruler, in that case, will substitute one of his kinsmen in his room, in preference to a stranger.

Question 52d.—How can a zemindary be deemed an inheritance since it is not declared to be so in the sunnud?

Answer.—I have already remarked that a zemindary is obtained by inheritance; not by gift from the ruler; and that a zemindar does not hold his land by a sunnud. The stranger substituted by the ruler in the room of an ejected proprietor, must certainly possess a sunnud, and abide by the obligations of it.

Question 53d.—If the office of zemindar be hereditary, are any other and what offices under Government so considered, or declared?

Answer.—When the Empire was in its vigour, no office was hereditary, His Majesty appointed and dismissed his officers at pleasure. But when the imperial authority began to decline, and that of the omrahs to increase in proportion, they held their appointments

pointments independently of the court; and transmitted them to their children; who, if they were unequal to the business, were usually dispossessed by those, whose ambition prompted them to aspire to the succession. This was the case in the Dukhin, in Lukhnow, and in Bengal. With respect to superintendents of offices, such as were capable persons, particularly in the canoongo's department, usually succeeded in a regular descent from father to son, as an encouragement to them to attend more diligently to the duties of their stations.

Question 54th.—Does a sunnud for lakheraj land, or a pottah for revenue land, granted by a zemindar, require the countersignature of the ruler to render it valid?

Answer.—Whoever has the charge of the revenues of a pergunnah, whether the zemindar or any other person, if he consult his own benefit, or that of the revenues, he will grant pottahs to the ryots under his own signature, or under that of his naib, for the cultivation of revenue land. These pottahs require not the countersignature of the ruler. I cannot understand the term lakheraj; unless it be used to express the land which the zemindars occasionally grant to individuals rent free. These grants never attract the attention of the ruler, so long as he receives the full amount of the stipulated revenue of the district; and possesses other extensive territories besides. It must however be acknowledged that a sunnud from the ruler could not fail of corroborating that of the zemindar.

Question 55th.—If it do, what officer's signature is required?

Answer.—As there is a gradation in the rank of the officers of Government, the same gradation in respect to validity holds in the sunnuds they respectively grant; and consequently the sunnud of the supreme ruler is of all the most valid. The possession of a sunnud from some one of these officers is a security and protection to the party holding it; though heretofore it was not customary to take out deeds of this kind.

Question 56th.—Whence, and from what period, has the term zemindar obtained?

Answer.

Answer.—From the earliest establishment of Sovereign sway, and of the practise of demanding revenue. Whoever possessed a tract of land for which he paid revenue, was, literally speaking, a zemindar: but as this word is of Persian origin, it is most probable that the Persians, when they originally invaded Hindoostan, and assumed the reins of Empire, introduced the term zemindar; and applied it to the deposed Rajahs, from whom they exacted revenue.

(Signed) A. CALDECOTT.

Translated, February 29, 1788.

Appendix. No. 17. Answers of the roy royan to questions respecting the rights privileges &c. of landholders.

APPENDIX, No. 17.

Translation of the Royroyan's answers to the following questions, respecting the rights, privileges, &c. of landholders in general.

Question 1st.—What is a zemindar; and what is a zemindary?

Answer.—A zemindar is a person possessing hereditarily, on the condition of obedience to the ordinances of Government, a tract of land under the denomination of a pergunnah, or chuklah, subject to the payment of revenue; and a zemindary is that land registered in the records of Government in the name of such person.

Question 2d.—How is a zemindar appointed?

Answer.—On the demise, or ejectment, of a zemindar, his successor, after having proved his hereditary right, is appointed by virtue of a deewany sunnud, on paying a nuzeranah and paishcush, as established by former rulers for the advantage of Government; so that in fact the succession to a zemindary is by inheritance.

Question 3d.—Has he any and what rights and immunities?

Answer.—The rights of a zemindar are restricted to his *birt*, *khomar*, and *muzkoorat*; that is to say, zemindary charges; *nankar*, *dustooral*, *malikanah*, &c. and the duties of a zemindar comprehend a complete discharge of his revenue; the cultivation and improvement of his country; the protection and security of his ryots, in conformity to the usage of the country; his conduct of any other affairs committed to him; and a constant observance

of

of the orders and regulations of the ruling power.

Question 4th.—Whence are those rights and immunities derived?

Answer.—A zemindar derives his rights, either from his ancestors who enjoyed them before him, or from the purchase of the inheritance of another, or from the attainment of it by the payment of a nuzeranah, paishcush, &c. It is incumbent upon him, in each case, to obey the ruling power; to be responsible for the affairs of his zemindary; to defend his country; and to cherish his ryots.

Question 5th.—Is a zemindary hereditary?

Answer.—For a long time past zemindaries have descended in the line of inheritance. The revenue is the right of Government; and the soil the inheritance of the zemindar; hence a zemindary is hereditary.

Question 6th.—Can a zemindar succeed by inheritance, without the sanction of the ruling power?

Answer.—The ruling power having always had a regard to the right of inheritance in the disposal of a zemindary, its descent in that line may be said to have obtained the sanction of Government; and hence it is that this mode of succession has invariably prevailed.

Question 7th.—Is there any, and what, instance, in which a zemindar has succeeded without the confirmation of the ruling power?

Answer.—The zemindars of a middle and inferior rank, such as those of Mohummudameenpore, Surfrazpore, &c. and the talookdars and muzkoories at large, hold their lands to this day solely by virtue of inheritance; whereas the superior zemindars, such as those of Burdwan, Nuddea, Dinagepore, &c. after succeeding to their zemindaries on the ground of inheritance, are accustomed to receive, on the payment of a nuzeranah, paishcush, &c. a deewany sunnud from Government. In former times the zemindars of Bishenpore, Pachete, Beerbhoom, and Roshunabad, used to succeed, in the first instance, by the right of inheritance; and by the established practise of their respective families; and to solicit afterwards, as a matter of course, a confirmation from the ruling power.

Question 8th.—Is there any and what instance, in which the ruler altered the succession of a zemindary, and gave it away from the legal heirs to another person, not the heir of the deceased zemindar?

Answer.—During the existence of an heir, and as long as he paid up his revenue, the ruling power never granted the zemindary to any other person. But where a zemindar misbehaved, or where there was no heir, or where the existing heir failed in the discharge of the revenues, or in the observance of the orders of Government, the middle and inferior zemindaries used, under such circumstances, to be given to the zemindars of a superior degree. For a further explanation of this subject, *vide* article the 30th.

Question 9th—Is a zemindary of one kind, or of many? and do the rights and privileges of a zemindary vary according to its nature?

Answer.—Zemindaries are of various kinds. Some are obtained by inheritance; some by clearing the country of wood; some by the ejectment of the former possessor for ill behaviour; some by purchase; and some in trust. Among these, some are large, and some small; yet in respect to the payment of the revenue, and observance of the orders of Government, their privileges and duties are uniformly the same; except that there is a difference in point of rank between the superior and inferior landholders; and except that the particular rights and privileges of the families of some zemindars differ from the general usage of the country at large.

Question 10th.—Can a zemindar give, sell, or alienate any part of his land, without application to the ruler previous to such gift, sale, or alienation?

Answer.—A zemindary being absolute and hereditary property, on the condition of paying a revenue to Government, a zemindar has possessed the power, for a long time past, to alienate, give away, or sell his zemindary land; and Government has uniformly acknowledged it.

Question 11th.—Supposing a zemindar to have alienated, given,

or

or sold land, without the knowledge of the ruler, was it usual and just for the latter to resume it?

Answer.—Whatever lands a zemindar gave away, sold, or alienated from his zemindary, without the authority of Government, the ruling power, regarding the practise and usage of the country, which have allowed this power to the zemindar for a long time past, did not resume.

Question 12th.—Supposing a zemindar to have forfeited his zemindary by rebellion, contumacy, or default of payment of his rents, was it usual for the ruler to give the zemindary to the heir of such zemindar? or to any other person?

Answer.—Whenever a zemindar was ejected in consequence of rebellion, &c. the ruling power, in case of extraordinary criminality, with a view to the well being of the affairs of the zemindary, (which consists in payment of the revenues, observance of the articles of stipulation, and obedience to the ordinances of Government), and at the same time shewing regard to established usage, gave the zemindary to his heir. But if the heir had been an accomplice in the rebellion, or refused to discharge the dues of the state, the zemindary was then granted to some other person. In cases of a less criminal nature, the offence was pardoned, and the offender reinstated in his zemindary, on paying a fine, and executing an engagement for his future good conduct.

Question 13th—Are the zemindars, by the laws of the empire, accustomed to receive any and what allowances in land or money?

Answer.—The zemindars of the Soobah of Bengal possessed *Chakuran*, *Khomar*, *Dewutter*, *Sudda Birt*, *&c.* lands which are differently denominated in different places, besides which they receive also a small allowance in money on account of *Muzkoorat*; the proportion of which is regulated by the extent of the zemindary, the rank of the possessor, and the amount of his expenses. The zemindars of the Soobah of Behar were allowed *nankar* lands and villages, *dustosrat*, and *malikanah* in money, at the rate of from five to ten per cent. When the amount exceeded or fell short

short of these proportions, there always existed some special reason for the deviation.

Question 14*th*.—Did they receive nankar? And what was nankar?

Answer.—Nankar, which signifies the subsistence of a zemindar, is given to him as a permanent allowance, at the rate specified in the preceding article.

Question 15*th*.—Did they receive malikanah? And what is the meaning of malikanah?

Answer.—The malikanah, or right of proprietorship, furnishes the subsistence of a zemindar. When his lands were farmed out, or held khas, he received his malikanah from the aumil, or farmer; when the management was in his own hands, he was uncontrolled. The rate of this article is mentioned above.

Question 16*th*.—Was not an allowance formerly made to the zemindars under the name of muzkoorat? And what is the meaning and nature of muzkoorat?

Answer.—The dustoorat of the zemindar, the russoom of the canoongoes, and the other zemindary charges, are collectively denominated *muzkoorat*. This allowance was granted for the charges of collection; and the zemindars received credit for it in their *jumma wasil baky*; or account of demand, receipts, and balance. It comprehends nankar, ikhrajat, khyrat, and various other articles, without any specific limitation of their respective amounts. For a long time past the zemindars' *dustoor* in Bengal has been between two and three per cent; the *mocuddumy* five per cent; and the *russoom canoongoee* half per cent.

Question 17*th*.—Are the allowances made to the zemindars, under the head of nankar, malikanah, or any other denomination, considered as personal? or as granted for services performed?

Answer.—The nankar, malikanah, &c. which were allowed to the zemindars, were not attached to their persons, or offices; they received them as the rights of proprietorship.

Question 18*th*.—If a zemindar was ejected from his zemindary, did he forfeit his nankar?

Answer.

Answer.—Whenever a zemindar was ejected from his zemindary, he lost the nankar attached to it; and the person who succeeded him obtained it. In case he petitioned for a subsistence, the ruling power, from motives of compassion, either granted him a part of the nankar, or made some other provision for his maintenance.

Question 19th.—When any land was granted by the ruler in altumgha, jageer, muddud mash, &c. out of a zemindary, did the zemindar, as proprietor of the land, receive any and what malikanah from the person receiving the grant?

Answer.—The granting of altumgha, jageer, and muddud-mash lands, depends upon the Emperor. In cases where the ruler, agreeably to ancient custom, made donations of this kind, he procured for the person receiving the grant a sunnud of confirmation from the Emperor. By the grant of an altumgha, &c. a zemindar loses his zemindary; and hence it is that in such cases he receives a *malikanah* from the possessor, agreeably to the mode and rates in usage.

Question 20th.—A zemindar is bound to pay revenues to his ruler. By what mode was the amount of it formerly regulated?

Answer.—In the time of former Nazims, the revenues of the zemindars were settled according to the *Tukseem* and *Toomar Jumma.* Afterwards a small *Tushkheesy* increase was superadded, and a settlement made under that appellation; upon which the *khas nuveesy*, *chout*, *nuzeranah*, *&c.* muthotes, were subsequently assessed; exclusive of the articles of *pooshtabundy*, *buha-i khelat* and *russoom nizamut*, which were severally deducted from the gross amount of the remittances.

Question 21st.—Did they anciently execute any cuboolecut for a specific sum?

Answer.—The zemindars subscribed their names to deeds of settlement, and kistbundies in the following forms. On the deed of settlement they wrote—"We will pay the above sum into the "treasury without excuse;" and on the kistbundy;—"we "will pay such a sum into the treasury, agreeably to the

stipulated periods." A zemindar, though under no cubooleeut, is bound by the custom of the country to keep the peace, and obey the orders of Government. Some zemindars, on obtaining their zemindary sunnuds, executed cubooleeuts to the above effect; and in cases where the conduct of a zemindar gave rise to suspicion, the ruling power exacted from him engagements of this nature, as a kind of security for his good behaviour.

Question 22d.—Was the zemindar bound by any and what rules in collecting the rents from his ryots?

Answer.—The *assul* rent was levied from the ryots according to the jummabundy, or rate of assessment, of each village; the *Abwab* according to the rate of each pergunnah; and the charges, *Muthote*, &c. according to the rate of each chuklah. In making the collections, regard was always had to the time of harvest, and ability of the ryots.

Question 23d.—What proportion of the produce did the ryots pay to the zemindars anciently?

Answer.—In the Soobah of Bengal the ryots have always paid their rents in money. The crop of the khamar land is usually divided between the zemindars and ryots in equal proportions; though in some places the latter are allowed more, and in others less; but for this fluctuation there is no specific rule. In the Soobah of Behar custom has established the share of the zemindar at $22\frac{1}{2}$ seer, and that of the ryot at $17\frac{1}{2}$; but variations from these proportions occasionally occur.

Question 24th.—Was this proportion fixed? and if so, by what law?

Answer—Exclusive of the proportions specified in the preceding article, an addition of 2 or 3 seer was exacted from the ryots at the time of reaping and gathering in the harvest, under the head *Bihraee* and charges of *Kunkoot*, or valuation of the crop.

Question 25th.—Has any and what alteration taken place in this proportion? if there have, by what authority, or custom, was the innovation introduced?

Answer.

Answer —The proportions specified in the written engagements throughout the mofussil have undergone no variation; though some zemindars and farmers, at the time of the harvest becoming ripe, have broken through their agreements; and under the pretence of charges and Bihraee have exacted more than their due, from a principle of dishonesty in themselves, and from a want of vigilance in the officers of Government.

Question 26th.—What is a chowdhra,ee? and what is the difference between a chowdhry and a zemindar?

Answer.—A chowdhra, ee was an office, and the person appointed to it was called chowdhry. The collection of the revenues from a number of talookdars was given in trust to him. This office has long since fallen into disuse in Bengal. Such among the landholders as retain the appellation of chowdhry, derive it from the circumstance of some of their ancestors having formerly held that appointment; and those who purchase the lands of such persons assume the title of the former possessors. In the Soobah of Behar, the office of chowdhry in some measure still exists; but even there some zemindars and talookdars are nominal chowdhries, in the same manner as in Bengal. Upon the whole, therefore, it appears that there is a material difference between a zemindar and a chowdhry.

Question 27th.—What is a talookdary? and what is the difference between a talookdary, chowdhra,ee, and zemindary?

Answer.—Whoever possesses a number of villages by hereditary right, subject to the payment of revenue, is a talookdar. A zemindary is much larger in extent than a talookdary. In regard to the rights of property and inheritance they are the same; but there is a difference in point of revenues, dignities and privileges, arising from a difference in extent of territory. The distinction between a zemindar and a chowdhry has been explained in the preceding article.

Question 28th.—Did you ever hear of any instances, in which the King, or Nazim, purchased lands of a zemindar, and for what purpose? name the instances?

Answer.

Answer.—It is related that the Emperor AKBER purchased lands from the zemindars, and others, for the forts of Akberabad and Illahabad; and that SHAH JEHAN and ALUMGEER made similar purchases; the former for the fort of Shahjehanabad; and the latter for mosques, as well as for the fort of Aurungabad; but as those events happened a long time ago, the names of the zemindars, &c. are not known.

Question 29th.—Why did the king, or nazim, purchase lands, since he had the power to take them?

Answer.—A zemindar is a payer of revenue. By ancient usage the revenue belongs to the Emperor, and the soil to the zemindar. The Emperors, keeping in view the practise of former times, considered the taking of land, without paying for it, as an act of oppression; and in this persuasion, they adopted the contrary method; because it appeared to them founded in right.

Question 31st.—Do you know any and what instances in which zemindars have been ejected, before the year 1172 Fussily? Name them, and the cause of their ejectment?

Answer.—From the time of the Nuwab MUHABUT JUNG, or from the year 1172, to the time of JAFER ALY KHAN, no principal zemindar was ejected, excepting the zemindar of Rajshahy; although the possessions of inferior zemindars were in some cases annexed to those of superior zemindars. For instance the zemindary of the pergunnah of Arsah, on the death of the zemindar without issue, was bestowed by the Nuwab MUHABUT JUNG upon the zemindar of Burdwan, in consideration of his having furnished a supply of grain at the time of the Marhatta invasion; notwithstanding the wife of the deceased zemindar was delivered of a son soon after. The purgunnahs of Suntose, Butasun, Kaleegong &c. were given, on their respective zemindars dying without heirs, to the zemindar of Dinagepore. On the like occasion the zemindary of Shapoor was granted to SUMBOOCHUND, the son of Rajah KISHENCHUND, the zemindar of Nuddea; and in the same manner the pergunnah of Goomgur was bestowed on the zemindar of Mysadul; as was also the pergunah of Saieedpore

on

on SULAH UDDEEN MAHUMMUD KHAN. The particulars of the ejectment of inferior zemindars can only be learned by a tedious reference to volumes of records.

Question 31*st*.—What is the difference between a Raj and a Zemindary? If there be any, specify it; and all the rights and privileges of the former.

Answer.—The meaning of *Rajah*, in the Hindee language, is *king*; and *raj* is the same as *kingdom*. The same distinction that subsists between a king and a zemindar, subsists also between a raj and a zemindary. Zemindars obtained the title of Rajah solely in augmentation of their dignity. At present there are but few Rajahs, or Raj. The Rajahs of Assam, Sireenugur, and Nipaul, still retain their Raj; are seated on thrones; coin their own money; and pay tribute to no one. The Rana, who was the chief of the Rajahs of Hindoostan, at present possesses but a small tract of country; though he is exempted from the payment of tribute, and exercises the power of life and death throughout his dominions.

Question 32*d*.—What is the nature of a yehtimamdar? And what are his powers, privileges, and business?

Answer.—A yehtimamdar is a kind of tehseeldar, possessing authority to realize the revenues. He is a servant; and his duty is to perform the obligations of his service. In case he be called upon for a balance, his accounts undergo an inspection, and he obtains his release accordingly.

Question 33*d*.—Is a yehtimamdar appointed by a sunnud? or otherwise?

Answer.—A yehtimamdar was usually appointed by a short sunnud; though in some cases his appointment was merely verbal; depending on the signing of his *burawurd*, or establishment. Sometimes he was deputed into the country on the part of the zemindar; and sometimes on the part of the aumil.

Question 34*th*.—What is the difference between a yehtimamdar, and a zemindar?

Answer.—There is no affinity between a zemindar and a yehtimamdar;

mamdar; the former possessing an inheritance; and the latter being an inferior officer. It is true the accounts of the canoongo's office, which contain the names of the zemindars, together with the pergunahs, kismuts, &c. are called the yehtimambundy papers; but this appellation has a reference to a different question.

Question 35th.—What is a crory? Has he any, and what privileges? and whence does he derive them?

Answer.—The tehseeldar of a crore of dams is called a crory; though the term signifies generally a collector of the revenues on the part of Government. His duty is to carry on the business; and make the collections of the revenues. His wages are chargeable on the zemindary.

Question 36th.—Does a yehtimamdar, chowdhry, or crory, receive any and what allowances, in land, or money?

Answer.—A yehtimamdar and crory are paid in money. A chowdhry also receives his russoom chowdhraee in money; in addition to which, in some places, he is allowed a small portion of land on account of duftur serinjamy, or office charges.

Question 37th.—What are, and what were, the denominations of the different officers employed in the management and collections of the revenue? Name them, with their respective occupations and privileges.

Answer.—The person who transacts the business of a village is called a *Putwary*. In the different wards of a village there are one or two *Munduls* employed to collect the revenues. Where two or three small villages are united, the person who conducts the collections, and attaches the harvest, is called *deehdar*, and indeed whoever is occasionally sent on the latter business, bears that appellation. A collector of several villages is entitled *turrufdar*, and a person deputed from the sudder to adjust the wasilaut accounts, and to measure the crops, is called *Aumeen*. A renter of several mehauls is termed *Moostajer*; and in some places *Mokuddum*. The head officer of a pergunnah on the part of the zemindar is occasionally termed *Sheikhdar*; and sometimes *Naib*.

The

The superintendent of the seeah, and jummah khurch serishteh, is called *Shoomar-novees*; and whoever keeps the accounts is denominated *Hissab-novees*, *Bunder-novees* or *Ursuttah-novees*. In the sudder serishteh of the zemindars, the principal officer is the *Deewan*; who is the head of all the zemindary Naibs. The next to him is the *Naib deewan*; whose duty it is to transact the business appertaining to the *deewan's* office. The serishtahdar of a zemindar is called *aumeen*; and not unfrequently *karkoon*. The person who keeps the amounts of the revenue is called *shoomarnovees*; and the officer who draws out the towjee, is called *towjee-novees*; or *tullub-baky-novees*, indiscriminately. The officer who provides the necessary articles for the cucherry, and pays the establishment, is denominated *bukshy*; and he who writes the letters, *moonshy*. The person who adjusts the accounts of the mofussil gomashtahs is called *nikas-novees*. The agent on the part of a zemindar is styled *vakeel*, and the person who is stationed at the sudder in that capacity, on the part of a principal zemindar, bears the name of *Naib*. The wages of some of these officers are paid in money, and some in land; and their rights, which arise from length of service, consist in their offices descending in a regular succession from father to son. A person who took from the khalsa a tahood for any mehauls was denominated *Mootâhid*; and whoever was appointed from that department, to recover a balance of revenue, was distinguished by the name of *Sezawul*. These appellations of the several officers employed in the collections are in use to this day. The person appointed on the part of Government to a foujdary station was called *foujdar*, and to him was entrusted the charge of the collections. But now, instead of foujdars, this business is in the hands of an English collector; whose deewan is called the deewan of the zillah, or the deewan of the Board of Revenue, indiscriminately.

Question 38*th*.—If a zemindar has no heir, has he a right to adopt one?

Answer.—When there be no son, or grandson, an adoption is strictly legal, and within the power of a zemindar; but on such an occasion,

occasion, agreeably to the written law, he must adopt the child of a deceased heir, in preference to the child of a stranger.

Question 39th.—Has the person so adopted a right to succeed to the zemindary? and whence is this right derived?

Answer.—After the death of a zemindar, the religious ceremonies, (upon which, according to the belief of the Hindoos, his future salvation depends) in default of an own son, are performed by the adopted son; and the regular succession of the house becomes perpetuated by the right of inheritance; which would regularly descend to the zemindar's son by blood; and devolves, in default of such a son, to the son by adoption; who is in fact the other's substitute.

Question 40th.—Is not the confirmation of the ruler necessary to confirm the succession of an heir by adoption to a zemindary?

Answer.—When a zemindar wishes to place his adopted son in the zemindary, the consent of the ruler is necessary.

Question 41st.—Is there any and what difference between the rights and privileges of a son by blood, and a son by adoption?

Answer.—As an adopted son is substituted in the room of a son by blood, their rights are equal; unless indeed a son by blood be born after the adoption; in which case there is a difference in their right to the property of the deceased father.

Question 42d.—What is a ryot? and how many kinds of ryots are there?

Answer.—A ryot is a person holding a portion of land subject to the payment of revenue. There are various classes of ryots; such as cultivators of the soil, labourers, persons exempt from manual labor, tradesmen, artificers, mechanicks, bankers, merchants, &c. each of whom is distinguished by his particular calling.

Question 43d.—What are the rights and privileges of ryots?

Answer.—The duty of a cultivator of the ground is tillage; that of a laborer is manufacturing salt, gathering wax, &c. that of persons exempt from manual labor to employ themselves in literary pursuits; that of tradesmen to furnish the necessaries of life; that of artificers and mechanicks to supply the various articles of

their

their respective professions; that of bankers to transact money matters; and that of merchants to import and export merchandise.

Question 44th.—What are the rights of a zemindar, or talookdar, over the ryots? and vice versâ?

Answer.—The duty of a zemindar, and talookdar, towards a ryot, is to guard and protect him; to cherish and encourage him; to advance him *tukavee* in case of need; to redress his grievances; and if by any accident he should have sustained a loss, to grant him an indulgence, or allow him a remission, with a view to prevent his desertion; and to be responsible to Government for his conduct. The duty of ryots to a zemindar, and talookdar, is to cultivate the different articles of produce; to pay their rents; to discharge their various other duties; and in case of the zemindar's being involved in difficulties, to assist in extricating him from them.

Question 45th.—What is the nature of ryoty puttahs? are they of different kinds or not?

Answer.—The meaning of a *puttah* is a lease for land, under an agreement to pay the rent of it, and comprehending a specification of the amount. In some places the puttahs specify both the amount of rent, and the quantity of land. They are however of various kinds, such as *mocurruree* (permanent;) *Theeka* (specific;) *Shurh Mouza* (at the village rate;) *Shurh pergunah* (at the pergunah rate;) *B'il Mookta* (adjusted;) *Khoodkasht* and *Páékasht* (as granted to resident or non-resident cultivators;) *Nou,ábad* (for lands newly cultivated;) *Jungul-booree* (for clearing wood;) *Sá,ir* (for duties;) *K,haláree* (for salt manufactories;) *Shuhd* (for honey;) *Móm* (for wax;) and various other denominations.

Question 46th.—If of different kinds, specify the nature of each.

Answer.—The objects of the various kinds of puttahs, which the zemindars grant, as it were in the nature of charters, to the ryots, are to ascertain the precise amount and rate of the rent for the satisfaction of the ryots; to prevent a deviation from the arti-

cles of stipulation; to guard against a difference of account; and to obviate the inconveniences of a change of officers.

Question 47th.—Is the property of the soil vested in the king? the zemindar? or the ryot?

Answer.—The sovereign is the proprietor, as well of the revenue, as of the country; and as the revenue arises from the land, he is so far the proprietor of the soil also. In consequence of paying the revenue, of submitting to the authority of the sovereign, and of succeeding to the inheritance of a zemindary by lineal descent, with power of alienation by gift or sale, a zemindar becomes the proprietor of the lands of his own zemindary. A ryot being a tenant, holding under a puttah, and possessing no authority to sell or give away, has consequently no property in the soil.

Question 48th.—In what manner are the revenues collected from the ryots?

Answer—In the soobah of Bengal the putwary of the village makes out the accounts of the ryots according to their puttahs, including the abwabs, agreeably to the rate of the village, and collects the revennes accordingly. In the soobah of Behar, the collections are regulated by the quantity of the produce, ascertained at the period of the harvest?

Question 49th.—Specify all the authorities existing, between a ryot and the head officer of Government, in a district.

Answer—First the putwary, or gomashtah of the village; next the turrufdar; then the naib of the pergunnah; after him the sudder officers of the zemindar, and talookdar; then the zemindars and talookdars themselves; after them the officers of the adawlut and foujdary; and last of all the zillahdar.

Question 50th.—Does a zemindary sunnud, like an altumgha sunnud, specify that the property it conveys is hereditary?

Answer.—Though a zemindary be hereditary, yet it is on the condition of a discharge of the revenue. Hence the term inheritance is not inserted in a zemindary sunnud; as it is in an altumgha sunnud; which contains no stipulation for the payment of revenue. Consequently a tenure under the former, is not heredita-

ry.

ry in the same sense with a tenure under the latter.

Question 51st.—Is it necessary for the heir of an altumghadar to obtain a sunnud from the ruling power, in order to render his title valid?

Answer.—As an altumgha sunnud expresses a lineal succession, the heir of a deceased altumghadar can consequently succeed without a new sunnud.

Question 52d.—What is the meaning of the term *Khidmut* in a zemindary sunnud? Does not this term imply that the zemindar is liable to be ejected at the pleasure of the ruler?

Answer.—To attend to the cultivation of the country, to promote its produce, to apportion part of that produce to the purposes of cultivation, part to his own subsistence, and the remainder, under the head of revenue, for the use of the state, and to be at all times obedient to the authority of the ruling power, are considered as the prescribed services of a zemindar; and hence it is that the term *service* is introduced into a zemindary sunnud The ruler has undoubtedly authority to remove a semindar; though, regarding the heritable nature of the tenure, he forbears to exercise it, except in cases of delinquency.

Question 53d.—If so, whence has it happened that zemindars succeed by inheritance?

Answer.—Although upon the delinquency of a zemindar the power of ejectment be in the hands of the ruler, yet a zemindary tenure has been generally admitted to be hereditary, for a long time past; and hence it is that the zemindars succeed to their possessions in this mode.

Question 54th.—How can a zemindary be deemed an inheritance, since no mention is made of it in a zemindary sunnud?

Answer.—Although the word *Inheritance* be not expressed in a zemindary sunnud, yet for ages past the succession to property of this kind has been in the line of inheritance, as set forth in the 53d article.

Question 55th.—If the office of zemindar be hereditary, are any other and what offices under Government so considered, or declared?

Answer.

Answer.—The servants of the Emperor, who conducted themselves with the fidelity, retained their employments through successive generations; and under this circumstance they considered their stations as hereditary; though in fact they were not so; because on the decease of an officer his heirs could not apportion out his office among themselves; nor could the possessor dispose of it by gift or sale.

Question 56th.—Is a sunnud for free land, or a puttah for revevenue land, granted by a zemindar, deemed valid, without the counter-signature of the ruler?

Answer.—Agreeably to the usage of the country, a sunnud for free land, and a puttah for revenue land, issued by a zemindar, are valid, without the counter-signature of the ruler.

(Signed) A. CALDECOTT,
Assistant Persian Translator.

February 2, 1788.

Appendix. No. 18. List of documents referred to on the rights of zemindars.

APPENDIX, No. 18.

List of documents referred to, on the subject of the rights of zemindars.

1. Mr. GRANT's Historical Analysis of the Revenues of the Northern Circars.

2. Ditto of the Revenues of Bengal.

3. Proceedings of the Committee of Revenue under the following dates:—

16th February,
27th March, } 1786.
18th April,

The above contain the opinions of some natives; as well as those of the committee of revenue; with translations of zemindary and other grants.

4. Extract from the proceedings of the Board of Revenue, 13th March 1787.

Containing a letter from Mr. JAMES GRANT, in answer to the requisition of the Court of Directors, on the jurisdiction, rights and privileges, of zemindars, jageerdars and talookdars.

IN

Further observations upon the rights of zemindars, in a letter from the Governor General in Council to the Court of Directors, dated 10th August 1789.

In a letter addressed to the Court of Directors by the Governor General in Council, on the 10th August 1789, subsequent to the dispatch of Mr. SHORE's minute on the rights of zemindars, the following observations were added, in reply to some remarks from the Honorable Court on the subject of Mr. GRANT's discussion of the rights of zemindars; and the opinion given by the committee of revenue in March 1788.* "It does not appear to us

* *Extract of a letter from the Court of Directors, dated 20th August* 1788.

Par. 28 *to* 32.—"We have perused with attention Mr. GRANT's discussion of the rights of zemindars; but we should have thought our Supreme Government very blame-worthy, if, upon his suggestion, or upon being ever so much urged to adopt that line of conduct by the committee of revenue, they had ventured to issue any public declaration which would have abrogated the claim the zemindars have been supposed to enjoy to an hereditary possession; and thereby precipitately committed the national faith and honor upon a subject of so much magnitude. Neither can we observe, without astonishment, the levity with which this most important consideration has been treated in the discussions of the committee. The common sunnud or patent of a zemindar does not certainly, in terms, confer an hereditary tenure; and we have never seen it ascertained, whether in ancient times the sunnuds were granted in the same form and tenor, for all the classes of zemindars described by the Nabob MAHOMMED REZA KHAN, in his remarks delivered to our President and Council in September 1773; but it seems to be admitted, on all hands, that hereditary descent and succession, (and in many cases mortgage and alienation) have long been usual in Bengal and Behar; and that notwithstanding the various revolutions at Delhi, and in the provinces, this rule has rarely been interrupted; but for acts of atrocity, which might incur forfeiture; default of revenue; or failure of heirs. This doctrine is very much confirmed, instead of weakened, by the account of the four principal zemindaries prepared by the dewan, and delivered in by Mr. COWPER. Moreover, we believe it is a fact, that many of the present zemindars are the lineal descendants of those persons, who possessed the lands before and under the conquest of Bengal by the Emperor AKBER, about two centuries ago. In like manner it is certain that the idea of an hereditary tenure has been sanctioned by repeated discussions of the British Parliament. It has been recognized also by the undeviating practice of our Governments in Bengal; and of all the dewanny courts since our possession of the country; and that not as mere acts of grace, or personal partiality; but as the dues of justice; yielded to those having a fair right to demand them. With all this evidence of fact before us in favor of the zemindars, we should not hold ourselves warranted in so monstrous an exertion of the powers vested in us by the legislature, as that of nullifying, upon a mere theoretic opinion, all the supposed property of an extensive territory; and which, even if it were decidedly legal, and politic, would not probably be effected without danger of revolt, or general injury to the country. As this great question has been agitated by our servants in Bengal, we wish to examine it without prepossession; and conceiving it to be our duty to declare these sentiments to you, we direct that your conduct may be made conformable to them. So far as to the right, or usage, of inheritance. We shall subjoin a very few general

us that any further lights, into the rights of the zemindars, can be obtained by a profest investigation of them. You have already before you, in the discussion of the subject, the evidence of the natives, and the practice of the native administration; and any further information from history must be merely accidental. The fact, as far as we are informed, is, that the oriental historians no where treat the subject professedly; and all that can be gleaned, from a research into them, can only be obtained by inference from a very few facts; which are merely sufficient to repay the time and attention necessary for the investigation. This remark is particularly apparent from a perusal of the institutes of AKBER, translated by Mr. GLADWIN, where we might reasonably expect to find observations and reflections upon the rights of the zemindars. The discrimination pointed out in the 33d paragraph* was not overlooked by Mr. SHORE in his minute in this subject transmitted to you on the 6th March 1788 by the Rodney; and some of the questions proposed to the natives have a reference to it. In a subsequent minute on the subject of the proposed permanent settlement, which is now under consideration, he has collected into one point

remarks that occur to us upon another part of Mr. GRANT's discussion; which is, to all appearance, a just and ingenious Analysis of the original land rent system of Rajah TUDER MULL."

Par. 33. "What particularly strikes us, in reflecting upon this question about the rights of zemindars, is that it ought to be regarded under two distinct points of view; and that the want of that discrimination, in all discussions we have hitherto read, has given birth to much perplexity, and sometimes much misconstruction. First, as to the nature of the tenure; whether creative of a property, or incidental to one previously existing; and whether that tenure was originally, or is by usage become hereditary. Secondly, as to the mode by which the sovereign did, at the moment of conquest, assess the revenues of his territory; how far that standard has been observed in succeeding practice; whether resort has been had to it upon new grants of zemindary, given in cases of escheat or forfeiture; or in instances of defalcation occasioned by the ravages of an enemy, encroachment of borderers, alluvion, and such contingencies, as must in every country render a new valuation of the revenue indispensable. This latter subject is not comprehended in any of your deliberations. We have therefore no grounds to form our judgment upon. But we are of opinion, that if some permanent standard were established, and universally admitted, to ascertain and fix the proportions of revenue accruing respectively to the state, the landholders, and the cultivator, numberless doubts and jealousies would be obviated; and the whole would be united in one general bond of interest, justice, and security."

* The paragraph referred to in the preceding note.

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of view all that he deemed himself authorised to assert upon the rights of the zemindars and talookdars. We are fully aware of the policy of ascertaining and fixing the proportions of revenue accruing respectively to the state, the landholders, and the cultivators; but it is the most difficult of all points to execute. To accomplish it fully may perhaps not be immediately practicable; but we shall endeavour to effect the object of it as far as possible, by the best rules and regulations which we can devise, for the security of the cultivator of the soil, and the intermediate classes of tenants and proprietors between him and the Government, against vexatious demands and impositions; and this we presume to be in a great degree attainable."

Final sentiments of the Court of Directors on the subject, in their general letter, relative to the permanent settlement of Bengal and Behar, dated 19th September 1792.

Mr. Shore's minute on the permanent settlement of Bengal, which is referred to in the above extract, will be cited in the next section; what is stated in it, on the rights of zemindars and talookdars, having an immediate connection with the rights of under-tenants. But it may be here observed, that the Court of Directors, in their general letter of the 19th September 1792, which conveyed their final sentiments and orders upon various points involved in the perpetual assessment of the land revenue, and the conclusion of a settlement for it with the landholders, expressed themselves, on the subject of *the landed rights of the zemindars*, in the following terms: "In former dispatches we have, on different occasions, conveyed to you our sentiments on that point; though we have also stated that we felt the materials before us to be insufficient for forming a decisive opinion. On the fullest consideration, we are inclined to think, that whatever doubts may exist with respect to their original character, whether as proprietors of land, or collectors of revenue, or with respect to the changes which may in process of time have taken place in their situation, there can, at least, be little difference of opinion as to the actual condition of the zemindars under the Moghul Government. Custom generally gave them a certain species of hereditary occupancy; but the sovereign no where appears to have

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bound himself by any law, or compact, not to deprive them of it: and the rents to be paid by them remained always to be fixed by his arbitrary will and pleasure; which were constantly exercised upon this object. If considered therefore as a right of property, it was very imperfect, and very precarious; having not at all, or but in a very small degree, those qualities that confer independence and value upon the landed property of Europe. Though such be our ultimate view of this question, our originating a system of fixed equitable taxation will sufficiently shew that our intention has not been to act upon the high tone of Asiatic despotism. We are, on the contrary, for establishing real permanent valuable landed rights in our provinces; and for conferring such rights upon the zemindars; but it is just that the nature of this concession should be known: and that our subjects should see they receive from the enlightened principles of a British Government, what they never enjoyed under the happiest of their own."

Publications of Mr. J. Grant, and Mr. W. Boughton Rouse, referred to, for a further discussion of the rights of zemindars.

I must refer those, who may be desirous of entering more fully into the discussion of the rights of zemindars, and the nature of their landed tenures, to *an inquiry into the nature of zemindary tenures in the landed property of Bengal, &c.* which was published in 1790, by Mr. James Grant, *late serishtahdar;* and to *a dissertation concerning the landed property of Bengal*, which was soon afterwards published in answer to the above, by Mr. C. W. Boughton Rouse, then Secretary to the Board of Controul.

A brief statement of the principles maintained in Mr. Grant's Treatise.

Mr. Grant maintains it to be a fundamental principle in all the native states of Asia, "*that the sovereign is sole universal proprietary lord of the land;* and that the *ryots*, who are husbandmen or peasantry, hold directly of the prince, by immemorial usage, as perpetual tenants *in capite;* subject to the annual payment of a certain fixed portion of the gross produce of the soil, in money or kind; to be collected through the intermediate agency of farmers general, or temporary commissioned officers of the crown;" viz. the zemindars, whose tenure is considered to be an office,

office, with certain rights and privileges annexed to it, "held by temporary conditional grant." It is denied by Mr. GRANT, "that the property of any lands in Bengal, excepting those held under the special grant of *altumgha*, and conditional *talookdary* and *ryoty* tenures, is or can be considered, according to the laws and established customs of the country, an inheritable property; or that it is otherwise vested in any class of Hindoo subjects as *real property*, in the common English acceptation of the terms." It belongs, he adds, "exclusively to the crown, under the description of *Khalsa*, or royal domains; and of *jageer*, or feudal possessions; the latter bestowed for life, or officially, on the higher officers of state, military commanders, and omrahs of the court, constituting the great and only body of nobles, known throughout the whole and still existing divisions of the Moghul Empire, and who may also be considered as *proprietors of landed estates* of the nature of benefices, or temporary fiefs." Mr. GRANT however admits the following modifications of the general principles maintained by him. Ist. "That a possessive tenure of certain subordinate territorial jurisdictions, called zemindaries, in virtue of a sunnud, or written grant, determinable necessarily with the life of the grantee, or at the pleasure of the sovereign representative, is universally vested in certain natives, called *zemindars*, that is technically *holders of land*, merely as farmers-general, or contractors for the annual rents of Government, with certain specific allotments of landed property, called *Nancar*, or means of subsistence, included in their respective jurisdictions; such property being always of small comparative extent, seldom more than one-twentieth part of the whole zemindary, when rightfully held, and invariably annexed to the patent office of zemindar; which generally confers, not only the subordinate management of the revenue, but an inferior juridical authority similar to that of an English Justice of the Peace." 2dly. "That within the larger zemindary jurisdictions, sometimes the proper official possessors of these, and in many instances other natives, called talookdars, hold certain copyhold rights of property, otherwise independent

of the zemindary; and which, being of inconsiderable extent, of accurately ascertained value, and fixed rental, frequently acquired by purchase, though generally in the first instance, through court-favour, bestowed on wealthy individuals resident in, or near, the Mussulman capitals, are usually allowed to descend by the rule of inheritance; and, with the special sanction of the dewanny, or financial administration, may be otherwise transferred or sold at the discretion of the actual occupant; reserving always to the crown its proper original dues of rent." 3dly. "That under both these distinctions of farming landholders, called zemindars and talookdars, a third class of the natives called ryots, (husbandmen or peasantry) hold certain rights of property in the same lands, independently of any intermediate orders of the landholders, as perpetual registered tenants of the crown *in capite*, by virtue of a leasehold tenure in writing called *pottah*, insuring to them, according to the established usage of the country, certain permanent undisturbed possession heritably, while they continue to pay regularly, through zemindar-contractors, farmers-general, or other appointed collectors, the annual rents of Government, at fixed specified rates of assessment, in money or kind, proportioned to the sovereign's general demand on the soubah, or province, formed on a medium of the gross yearly produce of the soil." In a letter addressed by Mr. GRANT to the Board of Revenue under date the 1st March 1787, and printed in the appendix to his treatise on zemindary tenures, he gives the following more enlarged statement of the *privileges of zemindars*. "These, though not ascertainable by their sunnuds, are equally to be learnt as precise matters of fact, from notorious usage, and revolving customary forms of the year in settling the jummabundy. The first essential privilege is that, by which the zemindar is entitled to stand in the place of a perpetual farmer-general of the lawful rents claimed by Government, within the circle of his jurisdiction; nor can he, or ought he, constitutionally, to be deprived of any contingent emoluments proceeding from his contract, during the periods of his agreements, though such should arise in concealment

concealment of the entire public resources on his part, with the corruption or ignorance of the other financial officers of the state. A second privilege annexed to the office of zemindar is that of being made the channel of all mofussil serinjamy disbursements. A third is that of improving waste grounds, under certain limitations, to his private advantage, at least for the period of his bundobusty engagement; though not, as more recently practised, by the depopulation, or fallow, of other productive lands, assessed for rent to the exchequer. A fourth is that of granting pottahs for untenanted farms in the ordinary terms of an Indian leasehold, yet more or less substantially beneficial to the occupant, in proportion to the favor of his superior landholder. A fifth is the privilege of distributing internally, as he pleases, the burthen of *Abwabs*, or additional assessments, when levied, as in Bengal, on the ausil jumma, by zemindary jurisdictions; and not specifically by pergunnahs. A sixth is that of paying his rents in money or kind, agreeable to established rules adapted to either mode, provided these obtain universally over one or more stated divisions of country. A seventh is that of adoption, or nomination of a successor to his zemindary, when done in his own lifetime, and not by will, with the approbation of the sovereign representative, to be confirmed by dewanny sunnuds. An eighth privilege is that of being considered to appear in the Huzoor, or presence, by deputy, in his proper behalf, or that of any of the ryots subordinate to his authority, unless summoned on some extraordinary occasions by a special writ applicable personally to himself. And these appear to me to be all the real privileges of a zemindar." *

Introduction to Mr. Rouse's Tract on the landed property of Bengal.

Mr. Rouse, whose tract was dedicated to the Right Honorable Henry Dundas, (then President of the Board of Controul,)

* Mr. Grant's theory of Indian tenures is supported in a work entitled *British India Analyzed*, which was printed in 1795; and is further illustrated in *Patton's principles of Asiatic monarchies* published in 1801. The former compilation, by a late Member of the Board of Controul (Mr. Grenville), contains an abstract of Mr. Grant's statements, connected with the subject, in his *Political survey of the northern circars*, and *Analysis of the finances of Bengal*; together with a translation, by Mr. B. Crisp, of the *Mysorean revenue regulations*, which had been separately printed at Calcutta in the year 1792.

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with an observation, that he knew the mind of the latter to have "long been satisfied on the subject of the hereditary title of the "zemindars, to the lands which have been continually occupied "by them and their ancestors; nor less upon the expediency of "confirming them, even if their positive claim were dubious;"* introduces his own view of the state of landed property in this part of India, which corresponds in substance with that of Lord TEIGNMOUTH, in the following terms:—"For my own part, the farther I have carried my enquiries, the more firmly I am convinced, that the state in which we received the rich provinces of Bengal, Behar, and Orissa, was a general state of hereditary property; modified certainly according to the nature and customs of the Go-

* Having noticed this authoritative opinion, ascribed to the late Lord MELVILLE, in 1791, I must also exhibit the following passage in the well known *historical view of plans for the Government of British India*, which was compiled by Mr. BRUCE, for the Board of Controul, and published with their permission, in 1793. "On the subject of the rights of the zemindars, the reasonings continued for years, in extremes. On the one hand, it was asserted, that the zemindar had been merely an officer, or collector of revenue; on the other, that he had been a feudatory Prince of the Empire. It has required the most laborious investigation to discover the fact, viz. that the Mogul was the Lord superior, or proprietor (terms equivalent in their meaning) of the soil; that the zemindars were officers of revenue, justice, and police, in their districts, where they also commanded a kind of irregular body of militia; that this office was frequently hereditary, but not necessarily so; that on the failure of payment of the rents, or of fulfilling the other duties of his office, he could be suspended or removed from his situation, at the pleasure of the Prince; that the rents to be paid to him were not fixed, but assessed at the will of the Sovereign; and that the ryot, or cultivator of the soil, though attached to his possession, and with the right to cultivate it, yet was subjected to payments varying according to particular agreements and local customs; that, in general, he continued on the spot, on which his labours were directed to raise the means for his own subsistence; but that the proportion to be paid to the state was to be judged of by the zemindar: the rights of the ryot had been gradually abridged, and the proportions he paid encreased, during the successive revolutions through which his country had to pass) before and after the fall of the Mogul Empire." It should be further noticed, that the well informed author of *Remarks on the husbandry and internal commerce of Bengal* has, in a note to that work, referred to the opinion expressed in the above passage, as *nearly corresponding with his own*. He adds—"The *raiat* certainly had a title by occupany, in right of which he might retain the land, without reference to the will and approbation of a superior; but subject to contributions for the support of the state. To assess and collect those contributions, regulated as they were by local customs or particular agreements, but varying at the same time with the necessities of the state, was the business of the *zemindar*, as a permanent, if not as an hereditary, officer. For the due execution of his charge, he was checked by permanent and hereditary offices of record and account."

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vernment which has prevailed there; but, nevertheless, existing with important benefit to the possessors, according to the universal sense of the people; sanctioned by the constant practice of the native princes, and established by immemorial usage from one end of the country to the other. I did imagine that this question had received its decision by the common assent of all political parties in the kingdom; resulting from the minute examinations which had been made into the subject, at a period when correct local knowledge was attainable; and by the voice of several statutes, passed by the two last parliaments, in the years 1781 and 1784; in which, amongst many salutary regulations, the zemindars, and other landholders, are distinguished from persons holding mere official nominations, and marked as a class of men eminently entitled to the national protection. I had, therefore, concluded, that they would have been permitted to enjoy, in gratitude and security, that protection held out to them by the legislature of Great Britain; and should have feared to injure their cause by renewing the discussion, had not the subject been again introduced to the public consideration, in a tract lately published under the singular title of *Inquiry into the nature of zemindary tenures, in the landed property of Bengal, &c. by J. G. late serishtehdar of Bengal.* I must do this gentleman the credit to say, that his sentiments are here delivered without any tincture of party, or personal invective; except only against the great Mahomedan and Hindoo officers, whose opinions have been quoted in a very able performance of Mr. Francis, relating to the revenues and tenures of Bengal. By attempting to demonstrate, that the zemindars, and other landholders of Bengal, have not, nor ever had, any claim of hereditary property; and that they ought to be considered as financial servants only, employed to collect the ground rents of the sovereign, as proprietor, or, as the title expresses it, having a tenure in his landed property; Mr. Grant would seem to invite this country to retract its plighted faith in their favour. I have not a doubt that he wishes to establish this opinion out of sincere zeal for the public interest and administra-

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tion; which he imagines would be benefited by annihilating such supposed property. I confess, my cordial wishes and endeavours, as far as the endeavours of an humble individual could avail in a great national object, have gone to promote a contrary system; and as no circumstances have hitherto produced any alteration in my sentiments, I find myself impelled by the importance of the occasion to declare, that I differ from him fundamentally in many articles of fact, justice, and expediency." It would add too much to the bulk of this volume to attempt any general illustration of the points of difference referred to; and it is the less necessary as Mr. Rouse, though he purposely "avoided quoting any discussions of individuals, except such as had before been given to the public in a historical point of view," and "chose rather to confine himself to his own observations upon original documents," yet supported his opinion of the rights of zemindars and talookdars, partly on the same authorities, and generally by the same course of argument, as have been stated in Mr. Shore's official minute on the rights of those descriptions of landholders, and its appendix. I shall therefore only add the following further extract from Mr. Rouse's preliminary remarks. "In taking any consistent view of the subject proposed, I find it impossible to draw an intelligent distinction, as to the article of permanent or hereditary property, between a zemindar and talookdar. I know of none but magnitude. With regard to the judicial functions conveyed by the sunnud (or patent) of the imperial officers, there may arise a difference: since the talookdars are generally, although not universally, subordinate to the zemindars. But if a talookdar takes out a sunnud on his own account, so as to have his name entered in the records of the superior Government, he is thenceforth considered as independent of the zemindar, and pays his revenue direct to the public treasury. However, if every talookdar were to take out a sunnud, the provincial divisions and jurisdiction would be broken; and the list of persons paying direct to the public treasury would be rendered so large, that hardly any number of collectors and accountants

Mr. Rouse's sentiments on the rights of zemindars and talookdars supported by authorities and arguments similar to those stated in Lord Teignmouth's minute, and its appendix.

Further extract from Mr. Rouse's preliminary remarks.

tants would be adequate to the increased perplexity of the current collections. The act passed in 1784, (cap. 25, Section 39,) makes no distinction at all between them. I have examined, from attested copies now in my possession, the sunnuds of a zemindar, talookdar, and chowdry; which latter, if I recollect right, is considered, in the modern practice of Bengal, as the head of several talookdaries united under one name; and I find the tenor of them exactly the same. It appears, upon a reference to all the correspondence of the times, and is universally known, that when the dewany of the three provinces was ceded to us, the country was distributed amongst the zemindars and talookdars; who paid a stipulated revenue by twelve instalments to the sovereign power, or its delegates. They assembled at the capital, in the beginning of every Bengal year (commencing in April) in order to complete their final payments, and make up their annual accounts; to settle the discount to be charged upon their several remittances in various coins, for the purpose of reducing them to one standard, or adjust their concerns with their bankers; to petition for remissions on account of storms, drought, inundation, disturbances, and such like; to make their representations of the state and occurrences of their districts: after all which, they entered upon the collections of the new year; of which, however, they were not permitted to begin receiving the rents from their own farmers, till they had completely closed the accounts of the preceding year; so that they might not encroach upon the new rents, to make up the deficiencies of the past. In many instances the zemindars were left unmolested in their several districts, and free from all check or interference. But when they were remiss in their payments, officers of government were deputed, under various titles, like the *canonicarii* and *compulsores* of the Roman revenue, in the time of the Emperors; whose duty it was to prevent any misapplication of the money collected by the zemindar, and his agents dispersed over every part of the country. For with them only rested the whole business of letting the lands, keeping the subsidiary accounts, and collecting the rents from the villages: and they were, in all ordinary

ordinary matters, independent of the interference of the superior government."

Concurring sentiments of Mr. HASTINGS and Mr. FRANCIS in favor of the hereditary title of the zemindars.

It seems proper to add, in this place, that in the discussions between the Members of the Bengal Government in 1775 and 1776, relative to the most expedient plan of settlement for the land revenue, whether for a limited period, or in perpetuity; and respecting the measures which should be adopted with a view to ascertain and regulate the land rents payable by the ryots; there was no difference of opinion between Mr. HASTINGS and Mr. FRANCIS, respecting the hereditary title of the zemindars. In the *plan for a future settlement of the revenues* recorded by the Governor General, Mr. HASTINGS, and Mr. BARWELL, on the 22d April, 1775, it is observed that "both by the Mussulman and the Gentoo laws, inheritance should be divided amongst the sons in equal proportions: yet it has been established by custom, that the large zemindaries shall not be divided; but be possessed entire by the eldest son, who is to support his younger brothers. On the contrary, it is usual for the small zemindaries to be divided amongst all the sons; but in many parts of the country the custom prevails, that the eldest should have something more than the others." In the plan of settlement recorded by Mr. FRANCIS on the 22d January 1776, it is also expressly asserted, that "the land is the hereditary property of the zemindar. He holds it by the law of the country, on the tenure of paying a certain contribution to Government." And the following *note* is added to Mr. FRANCIS' printed minute of the above date. "The inheritable quality of the lands is alone sufficient to prove, that they are the property of the zemindars, talookdars, and others, to whom they have descended by a long course of inheritance. The right of the sovereign is founded on conquest; by which he succeeds only to the state of the conquered prince; unless, in the first instance, he resolves to appropriate or transfer all private property, by an act of power, in virtue of his conquest. So barbarous an idea is equally inconsistent

Note added to the printed minute of Mr. FRANCIS, dated 22d January 1776.

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with the manners and policy of the British nation. When the Moguls conquered Bengal, there is no mention, in any historical account, that they dispossessed the zemindars of their lands; though it is frequently observed, that where they voluntarily came in, and submitted to the new Government, they were received with marks of honor; and that means were used to gain and secure their attachment. Only two motives could have induced the conqueror to such an act of violence, as changing the property of the lands; favor, or money. In the first case, his followers and companions, claiming their share in his success, would have been most likely to obtain possession of the lands; and some traces of their descendants would be found at present. If money had been his object, the Mussulman historians would have made mention of the sums so acquired; as they carefully and pompously mention the value of all acquisitions made by their kings, or generals. It is true, the forms of the royal sunnuds, or grants, to the zemindars, suppose them to hold of the sovereign *in capite*; but this I consider as a kind of feudal fiction, of which the sovereign in fact never pretended to avail himself, as constituting a right to assume or transfer the possession. When he grants jageers, or lands for religious purposes, his order is addressed to the zemindars, chowdries, and talookdars. The land continues to be deemed a part of the zemindary: the sovereign only grants the revenue of it. The grantee, or jageerdar, never calls it his zemindary or talookdary. MAHOMED REZA CAWN, in his state of Bengal, affirms that the princes have no immediate property in the lands; and that they even purchase ground to build mosques, and for burying places. In addition to this evidence, it is material to observe, that the late administration,* who either dispossessed most of the zemindars of the management of the lands, or took no measures to restore them, constantly describe them as the hereditary proprietors; and on this principle have allowed them a pension, or a tythe of the gross produce for their support."

* Of 1772 and 1773.

Consideration of objections stated by the author of *historical sketches of the south of India* against the admission of a right of property in the zemindary tenure.

WAVING, at present, a reference to other authorities on the landed tenures of Bengal, and its dependencies, I shall confine myself to the consideration of some objections against the admission of a right of property in the zemindary tenure, as it existed in these provinces at the time of the permanent settlement, which have been published by the intelligent author of *Historical sketches of the south of India*, in a chapter *on the landed property of India*, that contains much authentic information, derived from local knowledge and the situation of political resident at the court of Mysoor, relative to the tenures of land in the southern parts of India; but not equally applicable to Bengal, and the north western provinces; or generally, to the zemindary tenure; which appears to be unknown in Mysoor, and the adjacent districts where the inquiries of Colonel WILKS were more immediately directed.*

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* The most full and accurate information of the land tenures and assessment of these districts, as well as of the whole of the territory under the Government of Fort St. George, will be found in the official papers inserted in the Appendix to the Fifth Report of the Select Committee on the affairs of the East India Company, 28th July 1812. An ample view of the subject, especially as it relates to the *modern possessions* obtained in and since the year 1792, is also contained in the report itself, under the head of *landed tenures*. It would add too much to the bulk of this volume, to extract the numerous proofs of a private right of property in the different territorial possessions referred to; particularly in *Canara* and *Malabar*, where, the committee observe, "the lands in general appear to have constituted a clear private property, more ancient, and probably more perfect, than that of England. The tenure, as well as the transfer of this property, by descent, sale, gift, and mortgage, is fortified by a series of regular deeds, equally various and curious; and which bear a very strong resemblance in both parts of the country. The proprietary right is either vested in individuals, or in co-partnerships of persons, each of whom possesses an unalienable interest in the estate, proportioned to the share of the property of which he has become possessed." I think it incumbent on me, however, to subjoin the following statement of the sentiments adopted by the committee respecting the zemindary tenure in Bengal and Behar, as it existed *when the Mogul Government was in its vigour*; with the variation it had undergone before the discussion of the rights of zemindars, which took place at the time of the permanent settlement. After noticing Mr. SHORE's minute of the 18th June 1789, as containing "information derived from experience and diligent research, in regard to the character and condition of the natives of India, the past and present state of the country, and the laws and practises of the Mogul Government, which may at all times be referred to with advantage as an authentic and valuable record;" the report (page 15 of the folio edition printed for the House of Commons,) proceeds as follows—"On a consideration of the information obtained, it appears, that although great disorder prevailed in

THE general result of the evidence adduced by him, in proof of the existence of a private right of property in land, within the provinces

Result of the evidence adduced by Colonel WILKS to prove

in the internal administration of the provinces, on the Company's accession to the dewannee, a regular system of Government had subsisted, under the most intelligent and powerful of the Mogul Governments, in which the rights and privileges of the different orders of the people were acknowledged and secured by institutions derived from the Hindoos; which, while faithfully and vigorously administered, seemed calculated to promote the prosperity of the natives, and to secure a due realization of the revenues of the state. As it was the opinion of some intelligent servants of the Company, that it would, in the approaching settlement, be more advisable to resort to the institutions and rules of the old Government, with which the natives were acquainted, than to proceed upon principles and rules in the administration of justice and revenue, derived from a state of society to which they were entire strangers, your committee will proceed to explain the scheme of internal policy in the management of the land revenue, to which it was contended by the persons above alluded to, the preference should be given."

"In the extensive plains of India, a large proportion, estimated in the Company's provinces at one third by Lord CORNWALLIS, at one-half by others, and by some at two-thirds, of land capable of cultivation, lies waste, and probably was never otherwise. It became therefore of importance to the native Governments, whose principal financial resource was the land revenue, to provide, that as the population and cultivation should encrease, the state might derive its proportion of advantage resulting from this progressive augmentation. Whatever might be the motive of its introduction, the rule for fixing the Government share of the crop had this tendency. This rule is traceable as a general principle, through every part of the empire which has yet come under the British dominion; and undoubtedly had its origin in times anterior to the entry of the Mahomedans into India. By this rule, the produce of the land, whether taken in kind or estimated in money, was understood to be shared, in distinct proportions, between the cultivator and the Government. The shares varied when the land was recently cleared, and required extraordinary labour; but when it was fully settled and productive, the cultivator had about two-fifths, and the Government the remainder. The Government share was again divided with the *zemindar* and the village officers, in such proportion, that the zemindar retained no more than about one-tenth of this share, or little more than three-fiftieth parts of the whole; but in instances of meritorious conduct, the deficiency was made up to him by special grants of land, denominated *nankar* (or subsistence). The small portions which remained were divided between the *Mokuddim*, or head cultivator of the village, who was either supposed instrumental in originally settling the village, or derived his right by inheritance, or by purchase, from that transaction; and had still the charge of promoting and directing its cultivation; the *pausbaun*, or *gorayat*, whose duty it was to guard the crop; and the *putwary*, or village accountant, perhaps the only inhabitant who could write, and on whom the cultivators relied for an adjustment of their demands and payments to be made on account of their rents. Besides these persons who, from the zemindars downwards, can be regarded in no other light than as servants of the Government, provision was made, either by an allotted share of the produce, or by

A private right of property in land, within the provinces of Ca-

provinces of Canara and Malabar, the principalities of Coorg and Travancore, and the whole extent of country between the sea and the

a special grant of land, for the *canongoe*, or confidential agent of the Government, whose name implies that he was the depositary and promulgator of the established regulations; and whose office was intended as a check on the conduct, in financial transactions, of all the rest. Under the superintendence of this officer, or of one of his gomastahs or appointed agents, were placed a certain number of adjacent villages, the accounts of which, as kept by the putwarries, were constantly open to his inspection; and the transactions in which, with regard to the occupancy of the land, and the distinction of boundaries, came regularly under his cognizance, in a form that enabled him, at any time when called upon, to report to the government the quantity of land in cultivation; the nature of the produce; the amount of rent paid, and generally, the disposal of the produce; agreeably to the shares allotted by the rules, as above explained. To his office, moreover, reference might be had to determine contested boundaries; the use of rivers or reservoirs for irrigation; and generally in all disputes concerning permanent property, or local usage, within the limits of his official range. Your Committee have been more particular in describing the office of the canongoe, because they find, that although proscribed and abolished (perhaps precipitately) as pernicious, in Bengal and Behar, after the conclusion of the permanent settlement of the land revenue, the same office in the ceded and conquered districts, and in the province of Benares, has more recently been pronounced "of great utility, and calculated to render much public benefit;" and the several officers found there continued in the exercise of their functions. A certain number of villages, with a society thus organized, formed a *pergunnah*; a certain number of these, comprehending a tract of country equal perhaps to a moderate sized English county, was denominated a *chuckla*; of these, a certain number and extent formed a *circar*; and a few of these, formed the last, or grand, division, styled a *soubah*; of which, by the deewany grant, the British Government had obtained two, the Soubah of Bengal and that of Behar; with part of Orissa."

"From this concise representation of what appears to have been the provincial organization of the revenue department, your Committee think it may appear that when the Mogul Government was in its vigour, if it be supposed that the different offices, from the highest downwards, were at any time judiciously filled and faithfully discharged, the rents of the lands might have been collected from the cultivator without oppression; and the different shares of the produce distributed by the rules described, under a just observance of the rights of the parties concerned; but as this was scarcely to be expected throughout so extensive an empire, more especially when in its decline; when exaction on the one part, and concealment and evasion on the other, were likely to be practised; the *khas* collection, or collection immediately by government, was only occasionally, and in particular instances, resorted to. In practice, it was more usual to have recourse to the zemindary settlement; or to a species of farming system, by the appointment of an *aumil*, or superintendent, who in designation was no more than an agent; but in practice was often required to engage for the production of a certain amount of revenue. To make the settlement, which might be for a term of years, but which was commonly annual, the subahdar, or dewan of the empire, either proceeded into the provinces, or summoned the landholders to his presence. If they agreed to

the hills, from Madras to Cape Comorin is stated in the following terms:—" We have now passed over the tract which I had proposed to trace, and, as I hope, have proved to the satisfaction of every impartial mind the positive and unquestionable existence of private landed property in India. After proving its distinct recognition in the ancient *sasters*, or sacred laws of the Hindoos, we have clearly deduced its derivation from that source; and its

nara and Malabar; the principalities of Coorg and Travancore; and the country between the sea and hills, from Madras to Cape Comorin.

to the amount proposed, the settlement was made with them; if not, it was open to a farmer, or aumil, who could tender security, if required, for the discharge of his engagements; which included not only the amount of revenue to be paid to the Government, but also the due distribution of the allotted shares to the zemindar, and the inferior village officers, as before enumerated. The profit to the farmer was supposed to be derived principally from the means which he might possess of extending the cultivation; and the zemindar, besides his established share of the produce, had, when the settlement was made with him, the same advantage. In both cases, this was probably the smallest part of the advantages they really derived; more especially if situated beyond the reach of control. On the same principle that the canoongoes and village accountants were stationed in the province, a head canoongoe and superintendent of the treasury, was stationed with the subahdar; whence were forwarded the annual revenue accounts to the seat of empire; and whence might, at any time, proceed orders, or forms of reports, to the provincial canoongoes and accountants, for the minutest particulars relative to the actual state or produce of any one or all of the different villages, contained within the limits of the province, over which the subahdar presided. Sufficient traces remained to shew, what was the original state of these institutions in *Behar*; but in *Bengal* the disorders which increased, as the Megul empire declined, had destroyed the efficacy of those checks, which had enabled the governing power to acquire an accurate account of the village collections. The office of the canoongoe was become little more than a name, and no better mode appeared, for gaining knowledge of the value of the lands, than could be obtained by a comparison of different years' collections, or by reference to village accounts, which were liable to fabrication. The difficulty was increased by a difference which had originally prevailed in the mode of forming the assessment in Bengal, from what has been described as the practice in Behar. In Bengal, instead of a division of the crop, or of the estimated value of it in the current coin, the whole amonnt payable by the individual cultivator was consolidated into one sum, called the *assal*, or original rent, and provision made for the zemindar, the village accountant, the mundul, and the other inferior officers, by other means than by a division of the zemindary portion of the produce. This was effected, either by grants of land, or by the privilege of cultivating on lower terms than the rest of the inhabitants; and partly in money; a mode which, as it afforded the officers of government no interest in the accuracy of the village accounts, rendered the fabrication or concealment of them the more feasible. It moreover placed the zemindar in a condition more consistent with European notions of proprietary right in the soil, than could be inferred from his portion of the produce, shared with the officers of government; and was, perhaps, the foundation of much of that difference of opinion, which appeared in the official discussions on that topic under the supreme government at this time."

present existence in a perfect form in the provinces of Canara and Malabar, and the principalities of Coorg and Travancore, which had longest evaded the sword of the northern barbarians. We have found it preserved in considerable purity under Hindoo dynasties, and comparatively few revolutions, in Tanjore, until the present day. We have traced its existence entire, but its value diminished, in Madura and Tinnevelly, which had experienced numerous revolutions, and had long groaned under the Mohammedan yoke. In the provinces adjacent and west of Madras, which had sustained the close and immediate gripe of these invaders, we have shewn by ancient documents its immemorial existence in former times, and even at the present day the right, in quality clear and distinct, but in value approaching to extinction: and we have observed, in the latter years of the dynasty of HYDER, the perfect landed property of Canara approaching the same unhappy state, in which the proprietor, from fear, disowned his property, and a small interval remained before its very existence would be buried in oblivion. The enquiry has led us over a large portion of the provinces subject to the Government of Fort St. George; and a necessity has occurred for touching lightly on its territorial policy. Before this branch of the subject be dismissed, it may be useful to take a rapid glance, *imperfect from the nature of my materials*, over the provinces subject to Bengal, whence this policy has been received."

His observations and strictures on the admission of the rights of zemindars, as land proprietors, in the official discussions relative to the permanent settlement of Bengal.

HE then proceeds to make the following observations and strictures; which are cited at length, to prevent the possibility of doing him injustice by a partial quotation. "It is to be regretted, that the long and uninterrupted subjugation of Hindoostan by Mohammedan princes had so far obliterated the best characters of the ancient Hindoo constitution, as to present to the first English observers nothing but Mohammedan institutions and edicts, as the earliest documents which it was necessary to consider. Institutions derived from the best practices of a code, which inculcates war against infidels as a religious duty, condemns the women and children

children of the vanguished to slavery, and the men to death, and condesends to accept submission, and the highest possible tribute, as a merciful commutation for liberty and life, do not seem to be very proper objects of imitation for an English Government. But the examples already presented to the reader, of the circumstances which have accelerated the decay of landed property in the south, afford sufficient ground to conjecture, that the same causes may have effected its entire extinction in many parts of Bengal. The political and official relations of the English Government were long and generally confined to intercourse with Mohammedan authorities; the few Hindoos of consequence, with whom they communicated, were either usurpers, or official servants, brought up in the trammels of Mohammedan principles and forms, which had long superseded the ancient constitution of the country. Our first impressions and prejudices were received from these impure sources, and the ancient Hindoo law was concealed by an impenetrable veil, which has not yet been entirely removed. The perplexity (and, without meaning disrespect, it is not of small amount) which pervades the official discussions of those great personages, who establised what is called *the permanent settlement of Bengal*, seems chiefly to have arisen from viewing the condition of the people through the medium of Mahommedan institutions. Although the royalties of the very ground on which these eminent men conducted this important controversy were granted by a Mohammedan prince, on the express condition that the English Company should purchase the thirty-eight villages, of which the grant was composed, from the *owners*, (not the owner,) neither of these personages could perceive any claim to the property of the soil, excepting in the sovereign, or the zemindar; and both were agreed in recognizing the rights of the latter.* It is really curious to observe the inex-

* It is added in a note. "The fate of this opinion is singular. I imagine there is now not one man in England, or in India, who conscientiously believes that the person designated by the modern term *zemindar* ever was proprietor. I of course mean the zemindar in the contemplation of these disputants; for, in the modern technical language of Bengal, the word means equally the descendant of the officer who collected the dues of government from the proprietors; and the proprietor himself where he has been permitted to exist."

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tricable puzzle in which they are reciprocally involved by this admission. Sir JOHN SHORE observes, that "it is equally a contradiction in terms to say, that the property of the soil is vested in the zemindar, and that we have a right to regulate the terms by which he is to let his lands to the ryots, as it is to connect that avowal with discretionary and arbitrary claims. They had here discovered a proprietor, whom it was found necessary to deprive of the first characteristic of property, the right to manage it in his own way, (a ward of chancery, or a proprietor under a statute of lunacy). Lord CORNWALLIS had observed, that "the numerous prohibitory orders against the levying new taxes, accompanied with threats of fine and imprisonment for the disobedience of them, have proved ineffectual," but he nevertheless thinks that the zemindars must and can in future be restrained. His Lordship, however, comforts himself by reflecting, that if they do levy new impositions, the rents will, in the end, thereby be lowered; because, "when the rent becomes so high as to be oppressive, and intolerable to the ryot, (what inference does the reader expect?) he must at length desert the land!" the very land, the rents, taxes, or impositions on which the zemindar ought to be punished for attempting to raise; and yet in a document selected, strangely enough, as an appendix to such a minute, a collector, after giving an account of certain *baboos*, who had obtained by fraud and misrepresentation a grant of some villages, and now, in the expectation of the proprietary right in land being vested in zemindars, claimed to be considered in that capacity, goes on to state, that this property was, in the same expectation, claimed by the heads of villages, as *maliks*, or propietors. These unfortunate men are described to have arrived at a state, nearly resembling that which has already been noticed in Canara and Arcot. They had been compelled to disavow their property; and had placed their villages under the protection of a zemindar, as being more able to screen them from the vexatious interference of the provincial officer *(Hâkim.)* "These persons (continues the collector) have occasionally disposed of the whole or a part of such villages, and the *purchasers* claim to be *maliks* or proprietors. Some of

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these purchasers of land have sold their land to others; and it is possible that such sales may have been variously multiplied. The *old proprietors* again represent, that the sale was made to answer oppressive exactions; and ought to be declared void." The collector concludes with the following remarkable words—"In truth, gentlemen, these old Maliks have urged their claims with much anxiety and importunity; they absolutely refused to enter into any engagements but as *Maliks* (proprietors), declaring they would rather lose their lives than acquiesce in a relinquishment of their hereditary rights." I have said that the perplexity observable in this controversy is curious; and I will now add that it is astonishing; because the simple recognition of private property in land, so broadly announced, and so unquestionably proved by this contest of the new and the old proprietors, who reciprocally admitted the fact of repeated sale, would have solved every difficulty; and served as a guide through the mighty maze in which these noble personages continued to involve themselves, and their readers, to the end of the controversy."

Further animadversions on the subject, by Col. WILKS, after noticing two of the documents annexed to Mr. SHORE's minute, on the rights of zemindars.

AFTER noticing two of the documents annexed to Mr. SHORE's minute on the rights of zemindars, which have been already exhibited (viz. Numbers one and twelve of the Appendix,) Colonel WILKS adds! "Under the only doctrine which was recognized in this discussion, the proof, and it is abundantly satisfactory, that the land is not the King's, leaves no alternative but to consign it to the zemindar. The author of *the principles of Asiatic Monarchies* argues with great force, that the claim of the zemindar being limited to one tenth of the sum collected for the king, it is absurd to distinguish as proprietor the person entitled to one tenth, while the remaining nine tenths are called a duty, a tax, a quit rent. The argument is conclusive; but the ingenious author has not unfolded the whole of the absurdity. Under the utmost limit of exaction, recorded in the modern history of India, the sovereign has received one half of the crop. The real share of the crop, which, even under such exaction, would go to this

redoutable proprietor, would be one-twentieth, or five per cent. According to the laws of *Menu* and the other *Sasters*, his share would be one sixtieth, or one and two thirds per cent; and this is the thing which a British Government has named *proprietor of the land.* In the controversy to determine whether the sovereign, or the zemindar, were the proprietor, each party appears to me to have reciprocally refuted the proposition of his adversary, without establishing his own. They have severally proved that neither the King, nor the zemindar, is the proprietor. At a very early period of the Company's Government in Bengal, Mr. Verelst, when charged with the collections of the province of Chittagong, looking at the condition of the people with that sound plain common sense which distinguished his character, and not through the medium of Mohummedan institutions, confirmed the rights which he found the people actually to possess, of transmitting and alienating their landed property by inheritance, mortgage, sale, or gift. The recognition of that right (in the words of the judge and magistrate of that province in 1801) "has fixed a value on real property here, which is not attached to it in other parts of Bengal, and has given existence to a numerous body of landholders unknown elsewhere," who are afterwards stated to consider themselves, and to be recognised by the Court, as *the actual proprietors of the soil.*" In a subsequent passage we find these remarkable words—"If comfortable habitations, and a numerous and healthy progeny, be proofs of a happy condition, the ryots in this province enjoy it in a high degree; and the small zemindaries and talooks in this division have contributed to increase population, and to rear a temporate and robust species of man, fit for every sort of labor." The opinions received on the same occasion from other provinces are uniform in stating that the condition of the cultivators has been meliorated, (slender melioration if they ought to be the proprietors) by the establishment of courts to which they can apply for redress against great oppressions. But I find nothing from the zemindaries resembling or approaching the delightful picture which has been drawn of the condition of these rightful proprietors, confirmed in the possession of their

their estates. About the same time that Mr. VERELST confirmed in Chittagong the rights which he found established; BULWUNT SING, the zemindar of Benares, then subject to the Vizier of Oude, found the same rights in that province; but instead of confirming, he invaded and usurped them. Forcibly subverting the rights of the zemindars, he reduced them from the condition of proprietors to that of mere tenants. This usurpation continued until the system of considering the zemindar as the proprietor of the soil had been for some time established; and the Courts of the English Government had been erected at Benares. The usurpation had not been of sufficient standing to obliterate the knowledge and the remembrance of the ancient proprietary rights; and after due investigation, the present zemindar was prevailed on by the British Government formally to recognize these rights, and they have accordingly been restored. I observe that a similar question was depending before the provincial court in 1801, between the zemindars and muckuddums (heads of villages) in Bhaugulpore; but I am not informed whether any other attempts have been made by the inhabitants of Bengal for the recovery of their ancient rights The reader will probably be of opinion, that enough has been adduced to establish the existence in that country of the same rights, and the traces of a gradation similar to that of the south, by which they have been partially obliterated, or entirely destroyed. Happily, in a large portion of the territory subject to the Government of Fort St. George, the question is still open to consideration. The rights which still exist are ripe for confirmation; and those which have been partially or wholly usurped, or destroyed, may yet be restored. Instead of creating, by the most absurd of all misnomers, a few nominal proprietors, who, without farther usurpation, can by no possible exertion of power be rendered either more or less than farmers, or contractors of revenue; the British Government may still restore property, and its concomitant blessings, to the great mass of its subjects. In this portion of India its ancient constitution may yet be revived. A company of merchants may confer a more solid benefit than

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was announced in the splendid proclamation of the Roman consul to the cities of Greece; freedom, in its most rational, safe, and acceptable form, may be proclaimed to the little *republics* of India; by declaring the fixed and moderate revenue that each shall pay, and leaving the interior distribution to themselves; interfering only on appeal from their own little magistrate, either in matters of revenue, or of landed, or of personal property. Under such a system, varying only from their ancient constitution in substituting for the tax on industry, involved in the exaction of a proportion of the crop, a fixed money payment, which is also of great antiquity in India, the waste would quickly be covered with luxuriant crops, because every extension of culture would be a clear profit to the proprietor; and without running into the wild fancies of a golden age, the mass of the people would be interested in the permanency of a Government, which had essentially improved their condition; and with the religion and laws of their fathers, had revived their long forgotten proprietary rights. But the British Government will only deceive itself, and harass the people, in the vain attempt to improve their condition by mere theories and innovations, while they continue to exact the whole landholder's rent, as is done in some districts, or the greater part of it, as in others. They must not expect to create property in land by a certain number of magical words, inscribed on paper or parchment. The only operation, by which property in land can be restored, is simply to leave the farmer that which constitutes property, a rent, a proprietor's share; and this may be effected, without any material diminution of that revenue which the exigencies of the time so imperiously demanded, by conceding to the proprietor the abatement which has, in all cases, been made to the *newly invented zemindar*."

The above observations, however applicable to the territory subject to the Government of Fort St. George, do not apply to Bengal and other provinces, where the coun-

However applicable the latter part of the above observations may be to a portion of the territory subject to the Government of Fort St. George, in which there are no zemindars, and where the lands are held in common, or under any mode of joint or separate tenancy, by the *little republics* adverted to, or *village communities*,

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as they are elsewhere called and described in the history of Mysoor,* they do not apply to Bengal and other provinces, where there are no such republics, or communities, (without a zemindar, talookdar, or other superior landholder;) and where, as justly ob-

try, when ceded to the Company, was in the actual possession of zemindars and talookdars.

* In page 117 of that work they are described as follows. "Every Indian village is, and appears always to have been, in fact, a separate community or republic, and exhibits a living picture of that state of things which theorists have imagined in the earlier stages of civilization; when men have assembled in communities for the purpose of reciprocally administering to each others wants. 1. The *Goud*, *Potail*, *Muccuddim*, or *Mundil*, (as he is named in different languages) is the judge and magistrate. 2. The *Curnum*, *Shanboag*, or *Purwaree*, is the register. 3. The *Talliary*, or *Sthulwar*; and 4, The *Totie*, are severally the watchmen of the village, and of the crops. 5. The *Neerguntee* distributes the water of the streams or reservoirs in just proportion to the several fields. 6. The *Jotishee*, or *Joshee*, or astrologer, performs the essential service of announcing the seasons of seed time and harvest; and the imaginary benefit of unfolding the lucky or unlucky days and hours for all the operations of farming. 7. The Smith; and 8, the Carpenter, frame the rude instruments of husbandry, and the ruder dwelling of the farmer. 9. The potter fabricates the only utensils of the village. 10. The washerman keeps clean the few garments which are spun, and sometimes woven, in the family of the farmer; or purchased at the nearest market. 11. The barber contributes to the cleanliness, and assists in the toilet of the villagers. 12. The silversmith, marking the approach of luxury, manufactures the simple ornaments with which they delight to bedeck their wives and their daughters. These twelve officers (*Bara-bullowuttee*, or *Ayangadee*) or requisite members of the community, receive the compensation of their labour, either in allotments of land from the corporate stock, or in fees, consisting of fixed proportions of the crop of every farmer in the village. In some instances the lands of a village are cultivated in common; and the crop divided in the proportions of the labour contributed; but generally each occupant tills his own field. The waste land is a common pasture for the cattle of the village. Its external boundaries are as carefully marked as those of the richest field; and they are maintained as a common right of the village, or rather the *township*, (a term which more correctly describes the thing in our contemplation) to the exclusion of others, with as much jealousy and rancour as the frontiers of the most potent kingdoms. Such are the primitive component parts of all the kingdoms of India." It is added in a note, "In some parts of the country the *silversmith* is not found included in the enumeration of twelve, his place being occupied by the *poet*, a less expensive member of the community, who frequently fills also the office of schoolmaster." And a further note contains the following extract from Colonel MUNRO's report on *Ananpoor*, dated 15th May 1806. "Every village, with its twelve *Ayangadees*, as they are called, is a kind of little republic, with the *Potail* at the head of it; and India is a mass of such republics. The inhabitants, during war, look chiefly to their own potail. They give themselves no trouble about the breaking up and division of kingdoms; while the village remains entire, they care not to what power it is transferred; wherever it goes the internal management remains unaltered; the potail is still the collector and magistrate, and head farmer. From the age of MENU, until this day, the settlements have been made either with, or through, the *Potail*.

served by Mr. ROUSE, at the time when they were ceded to the East India Company, "the country was distributed amongst the zemindars and talookdars."* This fact, (which is admitted by Mr. GRANT) should be always recollected, when the measures adopted by the Government of this Presidency, as they respect the zemindars and talookdars, are examined; and a judgment is passed upon the justice or policy of those measures. The Court of Directors had been required by an Act of the Legislature to give orders "for settling and establishing, upon principles of moderation and justice, according to the laws and constitutions of India, the permanent rules by which the tributes, rents, and services, of the rajahs, zemindars, polygars, talookdars, and other native landholders, should be in future rendered and paid to the United Company." Corresponding instructions were accordingly issued to

Necessity of adverting to this fact, whenever the measures of the Government of Fort William, as they respect the zemindars and talookdars, are examined.

The instructions of the Court of Directors, under an Act of the legislature, must also be attended to.

* The following description of the talookdars of Bengal is given by Mr. H. COLEBROOKE, in his *Remarks on the husbandry and internal commerce of Bengal.* "An inferior and subordinate class of proprietors hold petty estates. In the western provinces, where the office of the first receiver of rents (the *Mukkedem* or *mundil*) has in some instances become hereditary, the class of inferior proprietors may have had its origin in the admission of heirs to succeed to the subordinate offices of collection under the zemindar. But this cannot be the origin of the petty proprietors which are common in the eastern districts of Bengal. These tenures seem rather to have been an extension of the rights of occupants, from vague permanence, to a declared, hereditary, and even transferrable interest. They all bear a fixed quit rent for portions of land, which are to be inherited in regular succession; and some were understood to authorize the transfer by sale or donation; and consequently conferred every right which constitutes a real property. Others, not compatible with alienation by sale or gift, formed an imperfect and dependant property, which nevertheless was inheritable in regular succession. But both, by abuse, are become liable to a variable assessment, in common with the lands of other occupants. The untransferrable, but hereditary properties, still however remained a little superior to the common right of occupancy; because this ceased with possession; whereas the hereditary title authorized the talookdar, or his heir, to resume possession, though his actual occupancy might have been interrupted." In a letter from the collector of Midnapore, (Mr. ERNST,) dated the 24th February 1802, and included among the answers to interrogatories, which have been printed for the use of the House of Commons, he observes that "all the talooks in this district, that existed at the time of the settlement, had been many years in the possession of the proprietors, and most of them had belonged to their families four or five generations." The same might be said of the Orissa and Bengal talookdars in general; and it has been already noticed (vol. II. page 216) that above three thousand were separated from the zemindary of Rajshahy alone, under the rule for a settlement with talookdars, who, from their title deeds or otherwise, might be considered proprietors of the lands composing their talooks.

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the Governor General in Council, (as stated in treating of the permanent assessment;*) and the latter, in forming a settlement as far as practicable with the landholders, at the same time framing such rules as might be requisite for maintaining the rights of all descriptions of persons under the established usages of the country, were desired to "consider with minute and scrupulous attention the clause above cited from the statute 24. Geo. III. cap. xxv.; taking especial care that all the measures adopted in the administration of the revenues be consonant to the sense and spirit thereof." Under these instructions, and the legislative provision on which they were founded, the only points to be considered respecting the zemindars and talookdars, in actual possession of their zemindaries and talooks, within the provinces subject to the Presidency of Fort William, were those to which the inquiries of the local Government were immediately directed; viz their "real jurisdictions, rights, and privileges, and the constitution and customs of the Mohummedan, or Hindoo Government; and what were the tributes, rents, and services, which they were bound to render, or perform, to the sovereign power." The result of this investigation is fully and candidly stated in the minute of Mr. SHORE (now Lord TEIGNMOUTH) on the rights of zemindars and talookdars; and in his subsequent minutes, with those of Marquis CORNWALLIS, relative to the permanent settlement of Bengal, and Behar.† A perusal of these documents, and of the rules established for the permanent settlement, including those enacted for the protection of the ryots and other under tenants, will enable every person to judge how far the intention of the legislature, and the instructions of the Court of Directors, have been duly carried into effect, or otherwise.

What points were left for the consideration of the local Government under those instructions; and inquiries made in consequence.

The result candidly stated in the minutes of Lord TEIGNMOUTH, and Marquis CORNWALLIS.

IT is not my intention to enter into a formal discussion of the subject: but having noticed the objections of Colonel WILKS, it

Remarks in answer to the objections of Colonel WILKS.

* Vol. II. page 173.

† See Appendix to the fifth report of the Select Committee. 1812. Numbers 1 and 5.

is incumbent on me to offer a few remarks in answer; chiefly with a view to correct some mistakes into which he appears to have been led by want of accurate local information. Had he possessed this knowledge, he would not have supposed the firman of the Emperor FURRUCKHSEER, granting to the Company, not the *royalties*, but the talookdary tenure (subject to an annual jumma, or assessment, of 8121 rupees) of thirty eight villages, in addition to three adjoining villages formerly *purchased from the zemindars*, on condition of these additional villages being also *purchased from the owners*, to afford any just ground of inference, that the two eminent personages referred to by him might, on the very spot where the discussion was conducted by them, have perceived a claim to the property in the soil, distinct from that of the sovereign, or the zemindar. For the *malikán*, or owners, from whom the purchase was to be made, were *zemindars*; as expressly recognised in the first article of a subsequent treaty with SURÁJ-OO-DOULAH (in February 1757) which stipulated "that the villages given to the Company by the firman, but detained from them by the soobadar, be allowed them according to the tenor of the firman; and that no restriction should be put upon the *zemindars*."

What owners of villages are referred to in the firman of the emperor FURUKHSEER.

COLONEL WILKS is under a similar mistake respecting the landholders in the district of Chittagong, whom, on an imperfect extract from a report, not of the judge and magistrate, but of Mr. KER the collector, dated the 17th March 1802,* he supposes to be a distinct class of land proprietors (not zemindars,) possessing ancient rights of inheritance, mortgage, sale, and gift; which were confirmed to them, at an early period of the Company's Government, by Mr. VERELST. The fact is however, that these very proprietors are *zemindars*; and are so designated in both the paragraphs of the collector's report, from which the extracts cited by Colonel WILKS are made. The first paragraph is in the

What description of landholders in the district of Chittagong were intended, and mentioned, in the report cited by Colonel WILKS.

* It was written in answer to circular interrogatories from Marquis WELLESLEY; and is included amongst the papers, which were printed for the use of the House of Commons, in April 1813.

following

following terms. "The regulations, in my opinion, are not calculated to realize the public demand with promptitude and facility, from the petty *zemindars* of this district. The minute subdivision of the landed property in this province, arising from the prescriptive right, which the occupants have enjoyed since the formation of the first jummabundy by Mr. VERELST, of transmitting their lands by inheritance, mortgage, or sale, and from the recognition of that right in the practice of the Dewanny Adawlut since its first institution, has fixed a value on real property here, which is not attached to it in other parts of Bengal; and has given existence to a numerous body of landholders unknown elsewhere. They feel themselves confirmed by custom, and a series of precedents of the civil court, as the actual proprietors of the soil, of even the smallest portion into which land can be divided. Secure in their possessions, and independent, they despise controul; and in general only pay their revenue when convenient to themselves. If recourse be had to attachment, the concomitant expense is excessive in proportion to the arrear and value of the estate; and it has been found ineffectual to adopt the system of distraining their personal property, as it is only productive of causing the elopement of the defaulters, and the concealment of their effects. All deputations therefore, made with a view to the distraint and sale of personal property, tend only to harass the incumbents, without any real advantage to Government. As these *zemindars* in general follow their own ploughs, and are the immediate cultivators of the soil, they differ only in name from inferior tenantry; and therefore might be rendered subservient to the same rules; and it would contribute much to the punctual collection of the public revenue, if the collector of this district were authorized, without any previous application to the Dewanny Adawlut, to proceed against defaulting proprietors, whose annual revenue may be under fifty rupees, in the same manner as he is authorized, by Section 25, of Regulation 7, 1799, to proceed against the under-tenants of an estate, that may become subject to a khas collection on the part of Government." The second paragraph quoted is as follows.—"The

zemindars in general conduct themselves with moderation towards their under-tenants; but this originates more from the fear of punishment than the love of justice. The zemindars and ryots, in their common transactions, seldom attend to the principles of good faith. Between them there exists a mutual distrust; and the ruling passion that influences them, in all their actions, is a strong self interest, that oversteps every bound of morality and virtue. The execution of specific engagements, and delivery of receipts for payments, which in all instances would tend to the security of the landholders and their tenants, are seldom tendered; and the almost total dereliction of the performance of these reciprocal duties is a strong proof of a want of honesty, both on the part of the zemindars and their ryots. If comfortable habitations, and a numerous and healthy progeny, be proofs of a happy condition, the ryots in this province enjoy it in a high degree; and the small estates in this district have contributed much to increase population, and to rear a temperate and robust species of men, fit for every sort of labour."

What persons were deprived of a proprietary right in the province of Benares by Rajahs BULWUNT SING and CHYT SING, and restored with the consent of Rajah MAHIPNARAIN, under the Fifth Clause of Section 3, Regulation 1, 1795.

COLONEL WILKS appears to be under a further misapprehension respecting the description of persons who were deprived of a proprietary right in the province of Benares, by Rajahs BULWUNT SING and CHYT SING, before the transfer of the sovereignty of this province to the Company; and were restored with the consent of Rajah MAHIPNARAIN, under the provision for that purpose contained in the Fifth Clause of Section 3, Regulation 1, 1795.* The persons so dispossessed and restored were *village zemindars*, as expressly recognised in the clause above noticed, and in Section 12, Regulation 2, 1795, which describes them as a "numerous class of village zemindars, who had been dispossessed and reduced to the situation of cultivating ryots, during the administration of Rajahs BULWUNT SING and CHYT SING." Colonel WILKS indeed appears to be aware that the restored landholders, in this instance, have the designation of zemindars; and he

* See vol. II, page 288.

has

has added the following note. "I am indebted for this fact to verbal information from a gentleman now holding a very high office in India, and officially conversant with the whole history of revenue in Bengal. The restoration occurred during the period that Mr. DUNCAN, late Governor of Bombay, presided over the affairs of that province; and I have also the obliging permission of that gentleman to state that he considers the account here given to be generally correct: but I do not know the exact extent to which BULWUNT SING had proceeded in his exactions. The present settlement is made with the actual occupants (whether individually, or collectively by villages, is virtually the same;) and according to the nomenclature of Bengal, as applied to Chittagong, we have here the great zemindar of Benares, and a multitude of small zemindars paying ten or twenty rupees of revenue through the medium, or on account of, the great zemindar, who retains one rupee in ten of the nett collections as his commission. It will scarcely be denied that the zemindars of Benares and Burdwan, when we first became acquainted with them, were considered to be the same description of persons, and to bear the same relation to the inhabitants of their respective provinces. Yet in one, the occupants of the lands have been made proprietors, in the other they are tenants." But supposing (what is by no means the case) that the zemindars of Benares and Burdwan possessed the same rights and privileges, and stood exactly in the same relation to the British Government, when subjected to its authority; would it follow that the landed tenures within their two zemindaries, situated in different provinces, and at a remote distance from each other, must be the same? In the first clause of Section 17, Regulation 2, 1795, it is stated that "the landholders in the zemindary of Benares consist for the most part of village zemindars;" and in the Second Clause of the same Section it is added—"There are also many talookdaries within the four circars composing the zemindary of Benares, which have depending on them a greater or less number of village zemindars, many of whom still retain the right of disposing by sale of their own estates, subject of course to the payment of the usual jumma to the talookdar."

But

But there were no such village zemindars in the district composing the zemindary of the Rajah of Burdwan. There were indeed some talookdars, and I believe some malgoozary aymadars, who were considered proprietors of the lands within their talooks, or ayma tenures, under the provisions of Sections 5 and 9, Regulation 8, 1793.* But these were separated from the zemindary, under the general rule contained in Section 4, of the same regulation, that the settlement, under certain restrictions and exceptions (specified in the sequel) "be concluded with the actual proprietors of the soil, of whatever denomination, whether zemindars, talookdars, or chowdries." It is therefore evident that Colonel WILKS is altogether mistaken in his remark, concerning the zemindaries of Benares and Burdwan, that "in one the occupants of the lands have been made *proprietors;* in the other they are *tenants;*" and it shews the danger of making the state of landed property in one province, a criterion for determining the rights of landholders and tenants in another province.

Circumstances of the village maliks in the province of Behar, referred to in Colonel WILKS' observations upon a letter from the collector of Shahabad.

COLONEL WILKS is not better informed respecting the village maliks in the province of Behar; if, as inferrible from his observations on a letter from the collector of Shahabad, annexed to Lord CORNWALLIS' minute of the 3d February 1790, he supposes that the private property in land claimed by the maliks therein referred to, or by numerous other maliks of the same description in the Behar province, was not recognized in the rules for the permanent settlement. The collector of Shahabad (whose letter, dated the 29th September 1809, was brought forward by Lord CORNWALLIS, to prove that a notification of the intended permanent settlement had produced the effect expected from it, by rendering "the proprietors of land anxious to have the management of their own estates") reported indeed a particular case, in which certain zemindars in the district of Rotas (Baboos JUGUNNATH SING, and SUNOTE SING) had fraudulently obtained from the

* See vol. 1, pages 212 and 215.

Patna

Patna provincial council, in the year 1771, a grant of twenty-nine villages, *in lieu of malikanah* on their zemindary, stated to consist of 874 villages; many of which were, "in fact, the property of others;" who, the collector says, "now claim the right of proprietors;" and he gives the following statement of the different claims which had come before him in forming the settlement of the villages referred to. 1. The Baboos object to any person, or persons, being permitted to enter into engagements, as maliks, for any village or villages, which have been included in the 874 villages, stated by them to the Patna council to compose their zemindary, and on which they have already received the proprietary right of malikanah, as such circumstance might affect the tenure of their malikanah villages granted by the said Patna council. 2. Men whose talooks were included in the Baboos' 874 villages, now claim the right of proprietors; and deny that the Baboos are possessed of any deeds which can justly deprive them of their rights. In like manner, the heads of several of the villages, composing such talooks, make the same objection to the talookdars' claim, asserting themselves independent maliks. They affirm, that solely for the sake of security to themselves, they placed their respective villages under the protection of such talookdars, who, from their superior influence, were able to screen them from the vexatious interference of the overbearing agents of the *hakim*, or provincial officer on the part of Government. 3. The smaller zemindars, who assert that they included their villages in the talooks of the greater landholders, for the sake of protection only, have occasionally disposed of the whole, or part of such villages. The purchases claim possession, and the privilege of giving in their cabooleats, as maliks, or proprietors. This is objected to by the talookdar, who considers every village forming the talook as his own unqualified property. 4. Men who have purchased villages or talooks, and paid ready money into the treasury of the aumil, deeming their claims superior to all others, urge them with much vehemence. Some of these purchasers of lands have sold their lands to others, and it is possible

sible that srch sales have been variously multiplied. 5. Many of the old proprietors, who have disposed of their villages at different times, in order to pay their balances of revenue, urge with great earnestness, that such sales were occasioned by the oppressive extortion of aumils; and that at a time when the property of land was rather considered a misfortune than an advantage. They therefore request that their old accounts may be examined, and they are most willing to pay such balances as may appear just. They further urge, that the present prospect of ease and profit to all proprietors of land, from the proposed ten years settlement, as well as from the probability of a fixed mokurrery assessment, will tend considerably to raise its value; and that their property was sold to satisfy the demands of aumils, at every disadvantage, even supposing the demands just; because, at that time, lands scarcely bore any value. 6. Some cases have occurred, where the real proprietors of the soil have sold their lands twelve or fifteen years ago; but have, nevertheless, continued in charge of such lands for the following reasons:—The purchaser, although willing to afford an equitable jumma, has, not unfrequently, been frustrated in this respect, by the exaction of the aumil, and by the eagerness of the old malik to submit to any extortion, rather than quit the lands he has been obliged to sell. By these means, the purchaser has, for long intervals, remained out of possession. At this particular time, when all are struggling to establish a claim to land, the old proprietors object the purchaser's not having had possession, as a reason why the bills of sale in his favour should not be adhered to." But this statement, with the further information given by the collector of Shahabad, that he had made a provisional settlement with the actual village occupants, as *Ooruf maliks*, or reputed proprietors, taking engagements from them to relinquish the lands, "if hereafter any persons should establish their claims by legal process," should, I think, have led Colonel WILKS to conclude, that the rights of the maliks of villages, wherever any such existed, and could establish their title, were not disregarded in the admission of zemindary rights, or in the general formation of a perma-

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nent settlement with the actual landholders; a conclusion which is supported by the express rule above cited from Section 4, Regulation 8, 1793; as well as by several other provisions in that regulation.*

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* See vol. II. pages 212 to 221. Colonel WILKS having noticed a suit depending before the Moorshedabad provincial court, between the zemindars and mocuddums of the district of Bhagulpore, and the Committee of the House of Commons having also referred to the same cause (in the fifth report on India affairs, dated the 28th July 1812) it may be useful to note in this place, that the right of the *malik mocuddums* of Bhagulpore, as proprietors of the lands composing their mocuddumy tenures, to pay their revenue directly to Government, under the rules prescribed for a settlement *with the actual proprietors of the soil*, in Sections 4 and 5, Regulation 8, 1793, was finally decided by the Court of Sudder Dewanny Adawlut, on the 24th June 1814, in a cause wherein RUNGLAL CHOWDHRY was plaintiff and appellant, and RAMANATH DAS the defendant and respondent. For the purpose of exhibiting a precise statement of the grounds on which this decision was passed, I hope to be excused in subjoining, *verbatim*, the following opinion, recorded by myself as Chief Judge, on the occasion.

"It has been determined by the Court of Sudder Dewanny Adawlut (in the case of HEERARAM CHOWDHRY versus SYUD MOHUMMUD HOSEIN, decided by Mr. COLEBROOKE and Mr. FOMBELLE, on the 8th September 1806) that a *mocuddum* in zillah Bhagulpore, appearing to be a *malik* of the village composing his mocuddumy, is entitled to be considered an actual proprietor of land, and to engage directly with Government for the assessment of his *milkeeut*, under the provisions of Regulation 8, 1793. In the present suit, which includes 26 assily and 12 dakhily villages, the title deeds exhibited by respondent appear sufficient to prove that he is malik of eight of the assily and four of the dakhily villages; but the bills of sale, which he alleges to have received for the remaining villages, are not forthcoming; and the nature of his title to them, whether of malik and mocuddum, or of mocuddum only, is not therefore so clearly ascertained. Appellant, who was plaintiff in the zillah Court, admitted in his original pleadings the mocuddumy tenure of respondent in all the villages; but stated the mocuddum to be a servant of the zemindar or chowdhry, like the putwary; and denied the right of respondent, as mocuddum, to be separated from appellant's chowdhraee as a proprietor, under the rules prescribed in Regulation 8, 1793. It is therefore necessary to determine a general question, not yet decided by this Court, whether the mocuddumy tenure, in zillah Bhagulpore, without proof of the mocuddum's holding any distinct title as malik, be separable, as an independent estate, under Sections 4, and 5, of Regulation 8, 1793, from the chowdhraee, to which it may have been heretofore annexed; or whether it is to be considered a dependent tenure, and left under the chowdhry, in pursuance of Sections 6, 7, or 8, of that regulation. With a view to form a satisfactory judgment on this question, the Court called for the proceedings and documents in another cause, decided by the Moorshedabad provincial Court, between KISHNARAM, chowdhry of Tuppah Pooranadesh, pergunnah Bhagulpore, plaintiff; versus PARUSNATH GHOSE, former canoongo of zillah Bhagulpore, and NUWUL DAS, mocuddum of Tuppah Shahabad, in the same pergunnah. In this case the mutual rights of chowdhry and mocuddum were more fully investigated than in the suit now under appeal; but the decree of the

Remarks on Colonel WILKS' citation from the minute of Lord CORNWALLIS, dated 3d February 1790.

I CANNOT but regret that Colonel WILKS has satisfied himself with a very imperfect extract from the minute of Lord CORNWALLIS, dated 3d February 1790, as affording sufficient ground for a remark, that his Lordship had *comforted himself by reflecting*, that if

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the provincial Court, in favor of the defendants (passed by Mr. PATTLE and Mr. ROCKE on the 9th August 1808) having declared NUWUL DAS, who appeared to have purchased his mocuddumy Tuppah from the heirs of a former malik, to possess a full right of property therein, it cannot be considered a precedent for the present case, without proof of a similar title. On full consideration of the documents and proceedings in the cause abovementioned, as well as in that now before the Court, with such other means of information as I have been able to consult, I am of opinion that the mocuddumy tenure in zillah Bhagulpore is such as to entitle the holder of it to all the privileges of a village malik, as possessed by acknowledged maliks in the same zillah, and in other parts of the province of Behar, for the following reasons. 1st. The mocuddumy tenure does not appear to be held by a potah, or any other writing, from the chowdhry; but to have existed, from time immemorial, in common with the chowdhraee; and to be equally hereditary and transferable. In FERISHTAH'S History of Hindoostan, the chowdhries and mocuddums are mentioned together, as having "rode on horse back, clad in armour, or clothed in rich dresses, and amused themselves in hunting, like the nobility," till they were oppressed by the tyranny of SULTAN ALA-OO-DEEN, who died, after a reign of 23 years, A. D. 1316; and "reduced the mocuddums and chowdhries to the level of the mass of ryots; ordering the dues of the mocuddums (*wujoob i-mocuddumee*) to be collected and paid into the public treasury." 2dly. The mocuddums appear to have exercised a full right of property, in selling the lands of their mocuddumy villages, by regular bills of sale; which in many instances have been attested by the cauzy, canoongo, and chowdhry; and expressly declare the *russoof malikanah*, or proprietary possession, of the seller to be transferred to the purchaser. 3dly. The interest of the mocuddum in the lands which compose his tenure, and the cultivation of which it is his particular province to superintend and promote, appears to be greater than that of the chowdhry. The relative proportions of the russoom mocuddumy, and russoom chowdhraee, are not indeed clearly specified in the papers before the court; and from the evidence of some of the witnesses it appears that, during a few years antecedent to the permanent settlement, when the lands were let in farm, or held khas by the officers of Government, the usual malikanah allowance of ten per cent was equally divided between the chowdhry and the mocuddum. But in a report from Mr. S. DAVIS, assistant on deputation in Mungheer, (a copy of which is annexed to this opinion) dated the 11th August 1790, the *Neakdary* (or portion of the rents payable by the ryots, appropriated to the mocuddum, chowdhry, and other persons mentioned under this head) is stated as follows:

1. *In Nuedy lands, the rents of which are payable in money.*

		RS.	A.	P.
Mocuddum,	per rupee, on the assil jumma,	0	0	20
Chowdhry,	ditto,	0	0	5
Putwary,	ditto,	0	0	5
Gorayt,	ditto,	0	0	2½
Deh-khurch,	ditto,	0	4	0

In

if the zemindars levy new impositions from the ryots, the rents will in the end thereby be lowered; because, "when the rent becomes so high as to be oppressive and intolerable to the ryot, he must at length desert the land," the very land, it is added, "the rents, taxes, or impositions on which, the zemindar ought to

2. *In Bhowly, and other land, the rents of which are payable in kind.*

	SEER.	CH.
"Malik or mocuddum, per maund of the assil rent,	1	0
Putwary,	0	8
Kynl,	0	4
Deh-dar,	0	4
Gorayt,	0	4
	2	4
Abwabs,		
Russoom chowdhraee,	0	4

Deh-khunch, different rates on lands of different descriptions."

The following explanation is added of the *mocuddumy* and *russoom chowdhraee*. 1st. "*Mocuddumy*, or as it is also termed malikanah, is the proportion of the gross rent, from time immemorial allotted to the proprietor, or officer, of that name, whose relative situation, or particular duty, I conceive it unnecessary to explain. 2d. *Russoom chowdhraee* is an allotment to the chowdhry or zemindar, similar in its nature to the foregoing."

In the above statement the proportion of the rent produce receivable by the mocuddum, both in nuedy and bhowly lands, is four times that receivable by the chowdhry; and although the same proportion may not have been established in every pergunnah, its existence in pergunnah Munghee, with the explanation given of the malikanah, or proprietary share, receivable by the mocuddum, who is also called malik or mocuddum indiscriminately, the acknowledged right of the mocuddums in every pergunnah to a share of the rent produce, or of the malikanah allowed to proprietors of land when deprived of the management of their estates, and the equal division of that allowance, of late years, between them and the chowdhries, when the settlement has not been made with either of them, afford strong presumptive evidence that the proprietary rights of the village mocuddums in zillah Bhagulpore have been long considered substantially the same as those of the village maliks in the same district; who are in general mocuddums as well as maliks, and are usually denominated *malik mocuddum*. The different views taken of the Moghul system of government, and of the tenures of land under that system, will of course lead to different conclusions as to the nature and extent of the proprietary rights formerly possessed by chowdhries and mocuddums, as well as by other landholders in India. But it may be useful, in considering the present question to notice, that the late Mr. JAMES GRANT, who held the office of sarishadar under this government, and who composed a full description of the Moghul system, in his "political survey of the northern circars," after observing that "the *deamuk*, *zemindar*, *chowdhry*, or chief of a district, consisting of "one or more pergunnahs, held the first rank, or consideration; for he was, at once "the agent of government, the head farmer, and natural representative of the peo-"ple;" adds that "the *puttely mocuddum*, or chief ryot of a deh, gramy or village,

was

to be punished for attempting to raise;" as if Lord CORNWALLIS had proposed to sanction, or tolerate, the undue exactions of the zemindars; whereas his Lordship's real sentiments on this point were expressed in the following terms. "If Mr. SHORE means, that after having declared the zemindar proprietor of the soil, in order

was precisely, within his narrower limits, what the *desmook* was in the pergunnah or zemindary." Although much of what I have stated is not evidence in the cause before us, it may be adduced in support of a general opinion, upon the nature of the mocuddumy tenure; and with this view I may further notice that, on inquiry relative to this tenure in different districts of the province of Behar, I am credibly informed that the village maliks are in many instances also denominated mocuddums, without any discrimination, or difference of proprietary rights. CHEDA SING, brother of KURRUGNARAIN SING, states that he and his brother were chowdhries of 200 villages in pergunah Serissa, zillah Tirhoot; that at the time of forming the decennial settlement, it was made by the collector with him and his brother for 50 villages, of which they were themselves maliks; but that the settlement of the remaining 150 villages was concluded with their respective *malik mocuddums*, who have consequently become entirely independent of his chowdhraee. The village maliks having, under the rules for the permanent settlement, been every where considered entitled to pay the assessment upon their milkeeut villages direct to government, the mocuddums of zillah Bhagulpore are, I think, entitled to the same privilege; and I therefore see no reason, in the cause before us, to alter the decisions of the zillah and provincial courts, which confirm the collector's separation of respondent's mocuddumy villages from the chowdhraee of appellant; and the settlement made with respondent as an independent landholder, under the provisions of Regulation 8, 1793. With regard to the plea of appellant, (who in his last statement admits the existence of hereditary mocuddumy tenures, with full rights of property) that respondent's mocuddumy is not of this description, but an office only, held at the pleasure of the zemindar or chowdhry; I see no evidence whatever to support it; and in a report of the chukladars and mocuddums of Tuppah Nia-Desh at three different periods, viz. the Fasuly years 1182, 1197, and 1206, transmitted by Mr. SHERBURNE, collector of Bhagulpore, to the Board of Revenue on the 28th January 1804, (a copy of which accompanies this opinion) I find respondent designated as mocuddum of the villages now in dispute, in the same manner as appellant is also mentioned as mocuddum of other villages, the mocuddumy tenure of which is possessed by him. I have not stated, in support of respondent's title, the inference which might be drawn from appellant's having himself entered into separate engagements with government for the assessment of his own mocuddumy villages; as well as jointly with respondent, RUTTUN MUN, and BHOWANY CHURN, for Sohail and other villages, the mocuddumy of which is held by them in joint tenancy; because we are not exactly informed under what circumstances appellant, and his Co-partner RUTTUN MUN, were induced to enter into these engagements; which were also subsidiary to a trial of right in the dewanny adawlut, under Section 12, Regulation 8, 1793. It may be still a question whether appellant is not entitled to receive from respondent his established nankar, or russoom chowdhraee, such as he was accustomed to receive before the settlement with respondent, when he did not engage for the revenue of his chowdhraee. But,

as

order to be consistent, we have no right to prevent his imposing new *abwabs*, or taxes, on the lands in cultivation, I must differ with him in opinion. Unless we suppose the ryots to be absolute slaves of the zemindars, every begah of land possessed by them must have been cultivated under an express, or implied agreement, that a certain sum should be paid for each begah of produce, and no more. Every *abwab*, or tax, imposed by the zemindar over and above that sum, is not only a breach of that agreement, but a direct violation of the established laws of the country. The cultivator therefore has, in such case, an undoubted right to apply to

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as respondent asserts that the chowdhraee russoom has been, long since, abolished by order of government, and as this question has not been tried or agitated in the present action, brought for re-annexation of the mocuddumy villages to the chowdhraee of appellant, it may be left to amicable adjustment, or if requisite, to a separate suit.

To prevent mistake, it may be proper to note that the *malik mocuddums* of zillah Bhagulpore and other parts of the province of Behar, referred to in the foregoing opinion, are very different in their tenure and rights from the *mundul mocuddums* of Bengal. The latter are described in the report of Messrs ANDERSON, CROFTS and BOGLE, commissioners, dated 25th March 1778, as follows; and their statement of the functions of a mundul, or mocuddum, is adopted in M. SHORE's minute on the permanent settlement of Bengal, dated 18th June 1789, par. 245, 246. "The "mundul or mocuddum is the chief ryot of a gong, or village, and may be said to "hold his office by the good will of the inhabitants. His duty and situation lead him "to act as a mediator between the ryots and the petty collectors of the revenue, to "assist them in selling their crops, and in raising money to pay their rents, and "to settle or accommodate the little disputes which arise in the neighbourhood. He "is therefore chosen from amongst the oldest or most intelligent inhabitants; and "his influence and services depending solely on the good opinion of the ryots, it is "not the interest of the zemindar to change him, as long as he preserves their confi-"dence The head officer of a gong or village, on the part of the zemindar, is "styled currumcharee, or putwaree." Mocuddums of the description here mentioned are noticed, with the putwarees, in the AYEEN AKBERY, vol 1, of GLADWIN's translation, pages 381 and 385. The *mocuddum* (erroneously called *moburur* in the translation) and the putwary are directed "to keep their respective accounts of the produce of the soil, in the same manner as the karkun" The aumil is directed to compare these accounts, put his seal to them, and give copies to the *tepukchy*, or accountant. The latter is also instructed "to receive from the putwary and mocuddum copies of their towjee accounts, as a guide for making the collections, together with copies of the *surkhut*, or receipts, which are given to the husbandman"

(Signed) J. H. HARINGTON.

JUNE 24, 1814.

Mr. FOMBELLE, 2d Judge of the Court of Sudder Dewanny Adawlut, concurred in the above opinion, and the decrees of the zillah and provincial courts, in favor of the respondent, were confirmed accordingly.

Government

Government for the protection of his property; and Government is at all times bound to afford him redress. I do not hesitate therefore to give it as my opinion, that the zemindars neither now nor ever could possess a right to impose taxes, or *abwabs*, upon the ryots; and if from the confusion which prevailed toward the close of the Mogul Government, or neglect, or want of information, since we have had the possession of the country, new *abwabs* have been imposed by the zemindars, or farmers, that Government has an undoubted right to abolish such as are oppressive, and have never been confirmed by a competent authority; and to establish such regulations as may prevent the pratice of like abuses in future." Lord CORNWALLIS then adds—"Neither is the privilege, which the ryots in many parts of Bengal enjoy, of holding possession of the spots of land which they cultivate, so long as they pay the revenue assessed upon them, by any means incompatible with the proprietary rights of the zemindars. Whoever cultivates the land, the zemindars can receive no more than the established rent, which in most places is fully equal to what the cultivator can afford to pay. To permit him to dispossess one cultivator, for the sole purpose of giving the land to another, would be vesting him with a power to commit a wanton act of oppression, from which he could derive no benefit. The practice that prevailed under the Mogul Government, of uniting many districts into one zemindary, and thereby subjecting a large body of people to the controul of one principal zemindar, rendered some restiction of this nature absolutely necessary. The zemindar, however, may sell the land; and the cultivators must pay the rent to the purchaser. Neither is prohibiting the landholder to impose new *abwabs*, or taxes, on the lands in cultivation, tantamount to saying to him, that he shall not raise the rents of his estate. The rents of an estate are not to be raised by the imposition of new *abwabs*, or taxes, on every begah of land in cultivation; on the contrary, they will in the end be lowered by such impositions; for when the rate of assessment becomes so oppressive as not to leave the ryot a sufficient share of the produce for the maintenance of his family, and the expenses of

cultivation,

cultivation, he must at length desert the land." This extract surely warrants an inference the very reverse of what appears to have been drawn by Colonel WILKS; or at least to what others might naturally infer from the extract given by him and his observations upon it.

Remarks on Colonel WILKS' quotation from Mr. SHORE's minute of the 8th of December, 1789.

I MUST further object to the quotation from Mr. SHORE's minute of the 8th December 1789,* without its context; which, if duly attended to, will, I think, explain what has appeared to Colonel WILKS *an inextricable puzzle.* Mr. SHORE, in the minute referred to, amongst other reasons for postponing the conclusion of a fixed unalterable assessment of the land revenue, notices the intricate and confused state of the land rents; "that the rules by which the rents are demanded from the ryots are numerous, arbitrary, and indefinite; that the officers of Government, possessing local control, are imperfectly acquainted with them, whilst their superiors, further removed from the detail, have still less information; —that the rights of the talookdars dependent on the zemindars, as well as of the ryots, are imperfectly understood and defined;—that, in common cases, we often want sufficient *data* and experience, to enable us to decide, with justice and policy, upon claims to exemption from taxes; and that a decision erroneously made may be followed by one or other of these consequences; a diminution of the revenues of Government, or a confirmation of oppressive exactions." He then (after some further remarks to the same effect) observes as follows—"The necessity of some interposition, between the zemindars and their tenants, is absolute; and Government interferes by establishing regulations for the conduct of the zemindars, which they are to execute; and by delegating authority to the collectors to enforce their execution. If the assessment of the zemindaries were unalterably fixed, and the proprietors were left to make their own arrangements with the ryots, without any restrictions, injunctions or limitations, which indeed is a result of

* It was recorded on the 21st December 1789; and is printed at length in the Appendix to the Fifth Report to the Select Commitee 1812.

the fundamental principle, the present confusion would never be adjusted. This interference, though so much modified, is in fact an invasion of proprietary right, and an assumption of the character of landlord, which belongs to the zemindar; for it is equally a contradiction in terms, to say that the property in the soil is vested in the zemindar, and that we have a right to regulate the terms by which he is to let his lands to the ryots, as it is to connect that avowal with discretionary and arbitrary claims. If the land is the zemindar's, it will only be partially his property, whilst we prescribe the *quantum* which he is to collect, or the mode by which the adjustment of it is to take place between the parties concerned." But to reconcile these apparent contradictions with the actual tenures of the zemindar and ryot, it is added—"The most cursory observation shows the situation of things in this country to be singularly confused. The relation of a zemindar to Government, and of a ryot to a zemindar, is neither that of a proprietor, nor a vassal; but a compound of both. The former performs acts of authority, unconnected with proprietary right; the latter has rights, without real property; and the property of the one, and rights of the other, are in a great measure held at discretion. Such was the system which we found; and which we have been under the necessity of adopting. Much time will, I fear, elapse before we can establish a system, perfectly consistent in all its parts; and before we can reduce the compound relation of a zemindar to Government, and of a ryot to a zemindar, to the simple principles of landlord and tenant."

Principal source of confusion in discussions relative to tenures of land in India.

In truth this is the principal source and origin of whatever confusion really exists in the discussions which have taken place relative to the tenures of land in India. It is by attempting to assimilate the complicated *system which we found* in this country, with *the simple principles of landlord and tenant* in our own, and especially in applying to the Indian system terms of appropriate and familiar signification, which do not, without considerable limitation, properly belong to it, that much, if not all, of the perplexity

perplexity ascribed to the subject has arisen. If by the terms *proprietor of land*, and *actual proprietor of the soil*, be meant a landholder possessing the full rights of an English landlord, or free-holder in fee simple, with equal liberty to dispose of all the lands forming part of his estate, as he may think most for his own advantage; to oust his tenants, whether for life, or for a term of years, on the termination of their respective lease-holds; and to advance their rents on the expiration of leases, at his discretion; such a designation, it may be admitted, is not strictly and correctly applicable to a Bengal *zemindar*; who does not possess so unlimited a power over the *khoodkashi* ryots, and other descriptions of under tenants, possessing, as well as himself, certain rights and interests in the lands which constitute his zemindary. But Colonel WILKS, with a view to guard against this ambiguity of expression, has defined the sense in which he proposes to use the word *proprietor*, as follows.—"In England a proprietor of land, who farms it out to another, is generally supposed to receive as rent a value equal to about one third of the gross produce. This proportion will vary in different countries according to circumstances; but whatever it may be, the portion of it which remains, after payment of the demands of the public, may safely be described as the proprietor's share of the produce of his own land; that which remains to him, after defraying all public taxes, and all charges of management. Wherever we can find this share, and the person entitled to receive it, him we may, without the risk of error, consider as the proprietor; and if this right has descended to him by fixed rules from his ancestors, as the hereditary proprietor." According to this definition, it cannot, I think, be denied that a zemindar is, in a restricted sense, *an hereditary proprietor*. His zemindary descends to his legal heirs by fixed rules of inheritance. It is also transferable by sale, gift, or bequest. And he is entitled to a certain share of the rent produce of his estate, if it be taken out of his management; or if he manage it, and engage for the public assessment, he receives whatever part of the rents may remain, after paying the assessment, and defraying the charges of management. It must however

A zemindar is not a proprietor of land, in the sense of an English landlord, or free-holder.

But he comes within the discretion of an hereditary proprietor, given by Colonel WILKS.

The zemindary tenure, under the Mosulman Government of Bengal, and adjacent provinces, especially in the large zemindaries held by sunnud, considered however to be an *hereditary office*, with certain rights and privileges attached to it.

however be allowed, that the peculiar tenure of a zemindar, as it existed under the Mosulman Government of Bengal and the adjacent provinces, (especially with regard to the principal zemindars, who held their zemindaries, with certain services attached to them, under a sunnud of grant or confirmation) partook more of the nature of an *hereditary* office, with certain rights and privileges attached to it, than of a proprietary estate in land; though it is justly observed by Mr. ROUSE, that "if the zemindary be even an office, and such office give possession of land, which has, by claim or custom, descended from father to son, or to collaterals, with other circumstances incident to property, such as mortgage, alienation, bequest, or adoption, it is in reality, a *landed inheritance*." The subjoined definition of a zemindar, with a slight alteration, formed part of the remarks, submitted by me to Lord CORNWALLIS in March 1789, on Mr. LAW's plan of settlement, as noticed in the second volume of this Analysis,* The zemindar (or *zumeendar*†) appears to be a landholder of a peculiar description, not definable by any single term in our language. A receiver of the territorial revenue of the state, from the Ryuts (more correctly written *Ruyyuts*) and other under-tenants of land. Allowed to succeed to his zemindary by inheritance; yet in general required to take out a renewal of his title from the sovereign, or his representative, on payment of a *péshkush*, or fine of investiture, to the Emperor, and a *nuzránah*, or present, to his provincial delegate, the Nazim. Permitted to transfer his zemindary by sale, or gift; yet commonly expected to obtain previous special permission. Privileged to be generally the annual contractor for the public revenue receivable from his zemindary; yet set aside with a limited provision, in land or money, whenever it was the pleasure of Government to collect the rents by separate agency; or to assign them, temporarily or permanently, by the grant of a

Definition of a zemindar, by the author of this Analysis, in 1789.

* Pages 192 and 239.

† The word is thus written according to Doctor GILCHRIST's system of orthography. But the common mode of expressing it, which is also used in the regulations, corresponds with the system adopted by Sir W. JONES, accenting the long vowels; as *zemindár*.

jageer,

jageer, or *ullumgha*. Authorized, in Bengal, since the early part of the present century,* to apportion to the purgunahs, villages and lesser divisions of land within his zemindary, the *abwab*, or cesses, imposed by the soobadar, usually in some proportion to the standard assessment of the zemindary, established by TORUNMUL and others; yet subject to the discretionary interference of public authority, either to equalize the amount assessed on particular divisions, or to abolish what appeared oppressive to the ryut. Entitled to any contingent emoluments proceeding from his contract during the period of his agreement; yet bound by the terms of his tenure to deliver in a faithful account of his receipts. Responsible, by the same terms, for keeping the peace within his jurisdiction; but apparently allowed to apprehend only, and deliver over to a Mosulman magistrate for trial and punishment. This is, in abstract, my present idea of a zemindar under the Moghul constitution and practise." I will now add, in concluding this imperfect statement of the discussions which have taken place relative to the rights of zemindars, that after the elapse of twenty-eight years since the above definition was given, I see no reason to alter it, as applicable to the principal zemindars of Bengal and Behar, before the conclusion of a permanent settlement with them for the land revenue of their respective zemindaries. Their situation however is materially altered by that important arrangement, particularly in their relation to the governing power; and as to what may be denominated the public interests, or rights of Government, in the lands of a zemindary estate. With reference to the power expressly reserved to the Governor General in Council by the Seventh Article of the Proclamation issued on the 23d March 1793, and repeated in Section 8, Regulation I, 1793, viz. that he "will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent talookdars, ryuts, and other cultivators of the soil;"† to the principle declared in the preamble to Regula-

How far the preceding definition is applicable to the zemindars, with whom a permanent settlement has been concluded.

* The *Eighteenth* of the Christian Era.

† See vol. II. page 198.

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tion 19, 1793, that "by the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every begah of land (demandable in money or kind according to local custom) unless it transfer its right thereto, for a term or in perpetuity; or limit the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the same;"* and to the large proportion of the rent of malgoozary lands (viz. all lands subject to assesssment) which is still paid into the public treasury, through the zemindars and other superior landholders, with whom or in behalf of whom the settlement has been concluded; such landholders may perhaps, strictly and theoretically, be yet considered as receivers, not simply of a private land-rent, but of the public land revenue or Government's portion of the land produce, from the cultivators and other under-tenants. As however the zemindar, talookdar, chowdhry, village malik, malik-mocuddum, (or mocuddum having the rights of a malik) and generally every landholder, of whatever denomination, on whose estate the public demand has been limited by a fixed assessment, is now at liberty (in the terms above cited) *to appropriate to his own use the difference between the value of such proportion of the produce, and the sum payable to the public;* as the amount of this difference, (or *proprietor's share*, as it is designated by Colonel WILKS,) is already computed to be, on an average, *treble* what it was before the establishment of a permanent assessment; † and as it may be expected to inccease still more by the cultivation of waste lands, and other agricultural improvements; the landholders, whose estates are secured to them, and to their lawful succes-

In what sense the superior landholders, whose estates

* Vol. II. page 486.

† See note on the first clause of Section 14, Regulation 1, 1814, page 167, of the present volume. When the assessment was variable, malgoozary lands were seldom disposed of, either publicly or privately, for more than one year's jumma; which was reckoned equivalent to ten years net profit. But they are now sold, under a fixed assessment, at an average price of three years' jumma; which has consequently been adopted in the regulations, as the valuation of malgoozary land, in the lower provinces and Benares.

sors

have been secured to them, and to their successors in perpetuity, at a fixed assessment, may be recognised as *proprietors*.

sors in perpetuity, at their present assessment, may be not improperly recognised as *proprietors of land* in a general sense, such as that evidently intended by the regulations, and public acts of Government; viz. without prejudice to the rights of the ryuts, and other under-tenants, of whatever description.* Moreover, the zemindars are no longer required to take out a sunnud, in ratification of their succession, or to pay *péshkush*, or *nuzránah*. Nor are they required to obtain any permission for the sale or gift of their estates; but are expressly declared at liberty, subject only to the legal provisions of the Hindoo, or Mohummudan law, and the regulations in force, "to transfer to whomsoever they may think proper, by sale, gift, or otherwise, the proprietary rights in the whole, or any portion of their respective estates, without applying to Government for its sanction.† Neither are they subject to a temporary or permanent dispossession from the management of their zemindaries, whilst they continue to pay, with punctuality, the revenue assessed upon them. Being themselves exempt from any new *abwábs*, or cesses, by the soobadar, they are restricted from imposing any upon their ryuts; and they are still, as heretofore, liable to the interposition of public authority, as far as may be just and necessary, to prevent oppressive exactions from their under-tenants, and secure the stipulated or prescriptive rights of the latter in their respective tenures. But consistently with the due maintenance of such rights, (the possessors of which, whether dependent talookdars, istimrardars, khoodhasht or other privileged ryuts, or generally of whatever denomination, if they have any right of occupancy to distinguish them from tenants at will, may be considered to hold talookdary, istimrary, or other dependent and inferior estates, within those of zemindars, independent

* Vide proclamation before referred to in vol. II. page 198. It may be further noticed in this place, that it is expressly declared in the Seventh Clause of Section 15, Regulation 7, 1799, that proprietors and farmers of land "will be held responsible for all acts done by them, or by their agents, which may exceed their just powers, and infringe the rights of under-tenants of whatever description, whether founded on pottahs or other written deeds and engagements, or on long prescription and established local usage."

† See Art. 8, of proclamation issued 22d March 1793. vol II. page 200.

talookdars,

talookdars, and other superior landholders;) the zemindars are now allowed to enjoy whatever rents and profits may arise from the improvement of their estates, without rendering, or exhibiting, any accounts of their receipts and disbursements; except when such accounts are required for an allotment of the fixed assessment on divisions of estates; or for the adjustment of suits between landholders or farmers, and under-tenants, relative to demands or exactions of rent.* Lastly, the zemindars in Bengal and Behar are exonerated from the charge of the police; and required only to co-operate with the police officers of Government in maintaining the peace within the limits of their respective estates; especially in giving punctual information of all heinous offences committed; and in discovering and assisting to apprehend the offenders.† A zemindar in the above provinces, as well as in other parts of the territory subject to this presidency, where the public assessment upon his zemindary has been permanently fixed and engaged for, may therefore be now defined, or described, in the following terms, viz. A landholder, possessing a zemindary estate, which is hereditable and transferable by sale, gift, or bequest; subject under all circumstances to the public assessment fixed upon it; entitled, after payment of such assessment, to appropriate any surplus rents and profits, which may be lawfully receivable by him from the under-tenants of land in his zemindary, or from the cultivation and improvement of untenanted lands; but subject nevertheless to such rules and restrictions as are already established, or may be hereafter enacted by the British Government, for securing the rights and privileges of ryuts and other under-tenants, of whatever denomination, in their respective tenures; and for protecting them against undue exaction, or oppression. What are the ascertained rights and privileges of the under-tenants here referred to? and what rules have been enacted

Terms, in which a zemindar may be defined, or described, where the assessment on his zemindary has been permanently fixed.

* See vol. II, pages 166 and 462.

† Vol. I, page 510. The responsibility of the landholders and farmers of land, and their local agents, for giving information of crimes and of offenders to the magistrates, or police officers, has been more fully provided for in Regulations 6, 1810; 1, 1811; 3, 1812; and 8, 1814.

for

for maintaining them, will form the subjects of the two following sections.

This section concluded with a copy of Mr. SHORE's minute on the rights and privileges of jageerdars, referred to in his minute on the rights of zemindars and taloukdars.

IT was my wish to notice previously, under the head adopted for the present section, a class of landholders distinct from those whose rights have been considered; viz. the holders of *lákheráj* tenures, or lands held exempt from the public assessment. But I find that any adequate consideration of the different tenures of this description, with an exhibition of the grants under which they are held, would occupy more room than can be allotted to the subject in this work; and must therefore content myself with giving the following copy of Mr. SHORE's minute *on the rights and privileges of jageerdars*, which is referred to in the concluding part of his minute on the rights of zemindars and talookdars, and was recorded on the same date, viz. the 2d April 1788. I regret that I am compelled to omit its voluminous, but useful, *appendix*, which contains the authorities referred to in it.

ON THE RIGHTS AND PRIVILEGES OF JAGEERDARS.

Ancient forms of the Mogul constitution how far in force when the Company acquired the dewanny grant.

"THE ancient forms of the Mogul constitution appear to have nearly expired with AULUMGEER, and when the Company acquired possession of the dewanny, the traces of them were only to be found. It is not therefore surprising that the English should have adopted eroneous ideas on this subject; and have confirmed abuses which they found to exist. In no instance is this reflection more applicable, than to the subject I mean now to discuss, the nature of the tenure called *jageer*."

What the jageer tenure was under the regular constitution of the Mogul Empire.

"I SHALL first explain what this tenure was under the regular constitution of the Mogul Empire, in order to point out those abuses which have subsequently prevailed in it, with considerable detriment to the interests of the Government."

The *munsub* to which a jageer was an appendage.

"A JAGEER is properly an appendage to a dignity called *munsub*, which it is therefore necessary to explain. In the Mogul Empire there are no hereditary dignities. The rank of the nobles was con-

ferred by special appointment from the Emperor for life only, and revocable at his pleasure; and it was estimated by the number of horse which they were supposed to command. This command was denominated munsub; and a jageer was an appendage to it. The mode of granting munsubs and jageers was first reduced to a regular system in the reign of AKBER, when the highest munsub conferred was ten thousand, and the lowest ten; being in all sixty-six; of which those above five thousand were granted only to the sons of the Emperor. The person on whom a munsub was conferred was styled *munsubdar*. He was raised to this dignity either by the immediate selection of the Emperor himself, or from the recommendation of the Nazims of Bengal, Kabul, and Decan; who, by reason of the superior importance of their charge, and the distance of their governments from the court, were allowed the privilege of recommending for preferment those persons whose power and abilities they required for the support of their administration. The forms attending the appointment of a munsubdar are detailed in the appendix. It is only here necessary to remark that the Emperor's pleasure, signified by his signature, was equally essential for the appointment of a munsubdar, or for increasing his rank.*

Horse attached to a munsub how far nominal; and further description of this dignity.

THE number of horse, which constituted the rank of the munsub, was merely nominal; and the personal pay of the munsub-

* *Note added to the original minute.*

"The Emperor's pleasure being previously signified, one of the four Bukshees at the presence (who were dignified with the appellation of *Buksheean Oozzam*, or the Grand Bukshees) presented a petition to his Majesty on behalf of the person to be promoted, specifying his name, with that of his family, and setting forth his request to be enrolled among the number of the royal servants. A sewal, or petition, of a similar nature was presented to the throne for increasing the *meratib*, or rank of a munsubdar, whether in consequence of the Emperor's order, or on the recommendation of the nazims of the soubahs mentioned in the minute. The sewal, or petition, having received the approbation of his Majesty, was referred to the dufter of one of the four Bukshees; where it received the attestation, or official mark of the mutsuddies, called *Tusdeek*. It was then presented a second time to the Emperor; who signified his final approbation by superscribing the word *be-debund*, or "let them grant it." This superscription was sometimes written by the Bukshees, upon receiving the royal order for that purpose. The petition being deposited in the dufter, a *yad dasht*, or certificate, was issued, specifying that on such a date, such a person was elevated to a munsub, of so many thousand, in the rissaleh of such a Bukshee. The above forms constituted a munsubdar."

dar,

dar, though regulated by it, was distinct from that which he received for the effective horse, which he was obliged or allowed to maintain. The former commenced from the date of the certificate of his appointment; the latter from the date on which his horses were mustered.* The pay for both was issued sometimes in money, and oftener by the assignment of land in jageer. In either case the prescribed official forms were extremely minute, and most scrupulously observed. In the Company's provinces there are no assignments in money, and the present discussion relates only to those in land called jageer.† All munsubdars were obliged to attend the Emperor whenever called upon; sometimes they were bound to specific services. The dignity of munsub was equally conferred upon the civil and military officers of the state, who were supposed to be qualified for the duties of both stations, and were hence called *Sahib-i Syfo Kulum*, or masters of the sword and pen."

Jageers, for what purpose granted.

"THE jageers were granted for the purpose of enabling the munsubdars to appear with a suitable retinue in the presence of their sovereign, or to enable them to discharge the duties of the station assigned to them. They were all either actually employed or ready for service when called upon. Jageers were of two kinds unconditional, and conditional. The former were conferred upon the

Of two kinds, unconditional and conditional.

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* *Second note added to the minute.*

"Descriptions of the horsemen attached to a munsubdar were taken in writing; and the horses were marked with hot irons by an Officer appointed for that purpose, called the *Daroghah Dagh Tusheehah*, who acted under the orders of the Bukshees at the presence."

† *Third note added to the minute*

"In order to obtain the necessary vouchers for granting an assignment for the pay of the munsubdar, and his *tabieen*, or troops, an officer called the *daroghah urz mokurrir* presented a *sewal*, or petition, to the Emperor, representing that such a person having been appointed to a munsub of so many thousand, and the *tusdeek*, or original attested sewal or petition of the Bukshee, with the *yaddasht* or certificate, having been deposited in the dufter, his Majesty's further orders respecting such munsubdar were required. The Emperor then inscribed the letter *swad*, or mark of approbation, on the top of the *sewal mokurrir*, signifying that the sewal, containing the particulars relating to the munsub, had been presented *a second time* to his Majesty, and returned

the munsubdars for their own maintenance, and that of their retinue, and the effective troops attached to their munsubs, and as the dignity

returned with the signature of approbation. If the Emperor directed that the munsubdar should be paid in money, no other forms were requisite, except the customary orders on the treasury. If the Emperor signified his pleasure that the munsubdar should receive his pay by an assignment of land (which was denominated a jageer) the Bukshee notified his Majesty's pleasure to the vizier, who accordingly issued an order to the *dewan-i tun*, to prepare the necessary grants. Upon the receipt of this order, the *dewan-i tun* drew out a sewal, or petition, which was transmitted, under an envelope, to the Emperor, who superscribed it with the letter *swad* or mark of approbation. It was then brought to the vizier, who signed on the back of it the letter *ain*, and returned it to the *dewan-i tun*, who added the letter *meem*; after which it received the official marks of the mutsuddies of one of the four Bukshees, and was deposited in the dufter. The *dewan i tun* then drew up another sewal, or petition, in which all the particulars relating to the assignment were detailed. If the amount of it was under ninety thousand daums, the vizier had authority to superscribe the sewal with the words *Tunkha Dehund*, "let them grant the assignment." If it amounted to one lack of daums, the vizier presented the sewal to the Emperor, who superscribed it with the letter *swad*, under which the vizier wrote the order above-mentioned. It then received the official marks of the *dewan-i tun*, and his officers, and was deposited in the dufter. In conformity to the above papers, a perwannah was drawn out under the seal of the vizier, directed to the dewan of the soubah in which the land to be assigned was situated; specifying the rank of the munsub, the cavalry attached to it, and the number of months for which the assignment was granted; and directing him, after putting the munsubdar in possession, to transmit an account of all the particulars relating to the land to the Royal Presence. When an assignment was granted to the dewan, the vizier's pewannah was addressed to the nazim, as appears from a sunnud of YYTESAM KHAN now before me. In all other cases it appears to have been directed to the dewan; and when the offices of nazim and dewan were for a short time united in the person of SERFRAUZ KHAN, the vizier's perwanahs for jageer assignments were addressed to him under the titles annexed to his latter capacity; and in the *mootabik* or provincial sunnud issued in conformity to the same perwannah, he also appears in the character of nazim. The dewan, upon receiving the perwannah of the vizier, presented a sewal or petition to the nazim of the soubah, reciting the particulars of the assignment, which the nazim superscribed with the words *sunnud be dehud* "let them grant a sunnud." Pursuant to this order the officers of the dufter drew out an account of the jumma or assessment of the lands on which the assignment was to be granted, as fixed by TORUN MUL, the dewan of AKBER, and a muchulka, or engagement, was taken from the jageerdar (which the dewan superscribed with the words *benazzer deramud* "it has been seen;" wherein he bound himself to treat the ryots with kindness, and not to collect from them more than the established dewanny dues; and also to pay into the public treasury whatever might be realized from the lands above the amount of the assessment. The dewan then drew out a sunnud (which was called *sunnud mootabik*, or a sunnud in conformity to the perwannah from the presence, under the seal of the vizier) directed to the chowdries, canoongoes and cultivators of the district in which the land granted in jageer was situated; acquainting them that a tunkha, or assignment, for so many daums having been granted to such

dignity itself was granted for life so were the funds assigned for it.* It is not to be understsod by an unconditional jageer that the munsubdar was exempt from the performance of any service. All that is meant by this term is, that the retaining the munsub, and the troops attached to it, did not depend upon his holding any particular office. A conditional jageer was granted to the principal servants of the crown in virtue of their offices, such as the vizier, the bukshees, the nazims, and their principal officers. The grant generally specified the name of the employment, and the number of troops to be maintained for the exercise of it; and the jageerdar was to remain in possession of the land assigned in jageer under this form as long as he held the office. The assignment had no relation to the *Munsub-zaut*, or personal rank of the jageerdar, being exclusively allotted for the support of the troops

a munsubdar, they were to account with him regularly for the established dewanny dues. It also enjoined the jageerdar to treat the ryots with lenity; and not to exact from them any thing beyond the customary rents. At the end of the *muttun*, or body of the sunnud, after the date, the nazim inscribed the *byz*, or mark of approbation; and at the top the dewan affixed his seal. On the back of the sunnud was inserted the perwannah of the vizier, the sewal or petition of the dewan of the soubah to the nazim, and all the particulars of the assignment, with its progress through the various offices of the state; from that of the vizier, down to the lowest department of the dufter of the dewan of the soubah. The original was then delivered to the jageerdar, who, after depositing a copy of it in the dewanny office, under his own seal or that of his vakeel, proceeded to take possession of the land. The sunnud to FUKHUR-OO-DEEN HOSSIN, (Appendix No. 2,) is very complete; and exhibits all the vouchers referred to in this note."

* *Fourth note added to the minute.*

"It did not follow that any particular spot, once granted to a munsubdar, was to be continued to him during life; nor even that he should invariably receive his pay by an assignment on land. When a munsubdar detached on service was recalled, or sent to another province, he generally received his assignment on lands not far distant from his new station. Sometimes the jageerdars were obliged to receive their pay in money, and those who were paid in money obtained assignments on land. In the book called the *Insbai Aulumgeeree*, there are various drafts of grants, both for converting money assignments into jageers, and the latter into the former; a proof that no perpetual occupancy of land was conveyed under this tenure. And from the sunnud of FUKHUR-OO-DEEN HOSSIN it further appears, that his father relinquished a considerable part of his jageers during his own life in favor of his son, for whose pay no funds had been provided; the whole of the lands in the soubah, set a part for assignments having been previously appropriated. The father of FUKHUR OO-DEEN HOSSIN received an assignment in another province for the land thus made over to his son."

attached to his official capacity. Upon the removal of these officers, their lands were usually transferred to their successors. Jageers could only be conferred with the royal sanction: but when the power of the Emperor declined, the nazims of the distant soubahs, who are originally allowed only to recommend munsubs, usurped the privilege of granting jageers, both conditional and unconditional. This act was so avowedly derogatory to the authority of the Emperor, that an evasion was practised to conceal it. The sunnud for the jageer was prepared by the dewan of the soubah, in which the lands assigned were situated, and attested by the seal and the signature of the nazim. His authority for issuing this grant was a perwannah from the vizier, in consequence of his Majesty's previous sanction; and hence this grant has obtained the name of *suunud mootabik*, or grant in conformity to the order from the presence, under the seal of the vizier."

Detail of circumstances relative to sunnuds for jageers.

THIS sunnud is the foundation of all the rights and privileges annexed to a jageer, and it is therefore necessary to consider it with attention. All jageeree sunnuds consist of two parts; the body which is properly the grant; and the endorsement. The former is general, stating that an assignment of a certain specified amount has been granted to such a person, from a certain date, and refers to the endorsement for the particulars, which are fully detailed there. The particulars which require notice, are the following. 1st. The rank of the munsubdar; and the pay annexed thereto. 2d. The number of effective horse allowed him; and the pay thereof. 3d. The amount of the assignment in daums, or in rupees on a proportionate valuation thereof. 4th. The number of months for which the assignment was granted.

Particulars which require special notice.

First. The rank of the munsubdars, and pay annexed thereto. It has been already observed that the rank of a munsubdar was constituted by the number of horse which he was supposed to command. But in each rank there were three degrees, according to which his pay was regulated. Thus it did not follow that every munsubdar of the rank of 1000 received equal pay. This depended upon the degree

First. Particular Rank of the munsubdar, and pay annexed thereto.

gree of that rank in which he stood; and that degree again upon the number of effective horse which he was allowed. If the number of them was equal to the amount of his munsub, he was of the first degree. If less than that number, and more than half, of the second degree. If less than half, of the third. These distinctions applied only to munsubs of, and under, the rank of five thousand. According to these distinctions, the pay of a munsubdar of one thousand, if of the first degree, would be 20,00,000 daums; if of the second, 19,00,000; and if of the third, 18,00,000 only. A table of the pay of the munsubdars, for their personal rank, is inserted in the appendix,* which will point out that annexed to each

* The table here referred to is entitled *Pay of the munsubdars for twelve months, in daums, for their munsub zaut, or personal rank*; and contains the following specification.

Rank of the Munsubs in daums.	*First degree.*	*Second degree.*	*Third degree.*
	Daums.	Daums.	Daums.
Twenty,	40,000	35,000	30,000
Thirty,	55,000	50,000	45,000
Forty,	70,000	65,000	60,000
Fifty,	85,000	80,000	75,000
Sixty,	1,00,000	95,000	90,000
Eighty,	1,40,000	1,30,000	1,20,000
One hundred,	2,00,000	1,80,000	1,60,000
One hundred and fifty,	2,50,000	2,30,000	2,10,000
Two hundred,	3,00,000	2,80,000	2,60,000
Two hundred and fifty,	3,50,000	3,30,000	3,10,000
Three hundred,	4,00,000	3,80,000	3,60,000
Three hundred and fifty,	4,50,000	4,30,000	4,10,000
Four hundred,	5,00,000	4,80,000	4,60,000
Five hundred,	8,00,000	7,50,000	7,00,000
Six hundred,	9,50,000	9,00,000	8,50,000
Seven hundred,	11,00,000	10,50,000	10,00,000
Eight hundred,	12,50,000	12,00,000	11,50,000
Nine hundred,	15,00,000	14,50,000	14,00,000
One thousand,	20,00,000	19,00,000	18,00,000
One thousand and five hundred,	30,00,000	27,00,000	24,00,000
Two thousand,	40,00,000	37,00,000	34,00,000
Two thousand and five hundred,	50,00,000	47,00,000	44,00,000
Three thousand,	60,00,000	57,00,000	54,00,000
Three thousand and five hundred,	70,00,000	67,00,000	64,00,000
Four thousand,	80,00,000	77,00,000	74,00,000
Four thousand and five hundred,	90,00,000	87,00,000	84,00,000
Five thousand,	1,00,00,000	97,00,000	94,00,000
Six thousand,	1,20,00,000		
Seven thousand,	1,40,00,000		
Eight thousand,	1,60,00,000		
Nine thousand,	1,80,00,000		
Ten thousand,	2,00,00,000		

rank,

rank, and its three degrees. It may also be verified by a reference to the grant to FUKHUR-OO-DEEN HOSEIN. The rank of his munsub is specified at two thousand; and the effective horse allowed him 500. By the rules laid down, he is in the third degree of the rank of 2000; and his pay is regulated accordingly, viz.

Amount assigned by the table for the pay of a munsubdar, in the third degree of the rank of 2000 daums, ...	34,00,000
Add 500 effective horse, at 8000 daums for each per annum, ...	40,00,000
Total in daums of the jageer assigned, according to the established rules of the Empire.	74,00,000

Secondly. The number of effective horse allowed.

Secondly. The number of effective horse allowed him. This was entirely unconnected with the number which fixed the rank of the munsub; although it ascertained the degree of it, and on this account, in the revision of jageer sunnuds, is particularly worthy of attention. The pay assigned for each horseman was at the rate of 8000 daums for twelve months; but the actual sums received by the jageerdars bore but a very small proportion to these allowances; which were little more than nominal; and hence it was that the munsubdars were not obliged to muster above a certain proportion of their effective troops; beyond which the number was nominal only.

Thirdly. Amount of the assignment in daums.

Thirdly. The amount of the assignment in daums. The daum was an imaginary coin, at the rate of forty to a rupee. But in paying the troops this imaginary coin was valued according to the number of months for which the assignment was granted, and was in fact much below the general computed rate.

Fourthly. Number of months for which the assignment was issued.

Fourthly. The number of months for which the assignment was issued. This is a very material point, as the value of the jageer, or assignment, greatly depended upon it. The munsubdars,

dars, and their effective troops, never received above eight or nine months pay; and often only three. About five months was the medium. This will appear from a comparison of the daums granted in the sunnuds and their valuation in rupees. A table is annexed for the purpose of exhibiting the actual value of a lack of daums, by a rule of proportion formed on the number of months for which the assignment was drawn out.* This calculation was made by the dewan, as the perwannah of the Vizier only specified generally the amount of the daums, according to the established rates of the empire; and the number of months for which the assignment was granted.

"FROM the preceding explanation a jageer may be defined to be, an assignment in land or money, for the support of a certain dignity, and for the troops annexed thereto. That it was either conditional or unconditional. The former implied, that it was granted for the expenses of a particular office or station; the latter, that it was independent of any office or station, being appropriated for the maintenance of a dignity, a suitable number of attendants, and the effective troops annexed to it. In the latter case, it was granted for life, or until the Emperor should please to resume the dignity, or diminish it. In the former case, it existed whilst the possessor continued in office only; and upon his removal or dismission, devolved, either in whole or in part, upon his successor. The services required from the jag-

* The following is the table here referred to.

Account to shew the value of daums assigned by jageer, in proportion to the number of months for which the assignment was granted.

	Rs.	As.	Gs.
When the assignment was for twelve months, one lack of daums was estimated at,	2,500	0	0
11 ditto ... ditto,	2,291	10	6
10 ditto ... ditto,	2,083	5	3
9 ditto ... ditto,	1,875	0	0
8 ditto ... ditto,	1,666	10	6
7 ditto ... ditto,	1,458	5	3
6 ditto ... ditto,	1,250	0	0
5 ditto ... ditto,	1,041	10	6
4 ditto ... ditto,	833	5	3
3 ditto ... ditto,	625	0	0

geerdars were either specific, or they were bound to the performance of whatever duties might be assigned to them, and to attend in person with their effective troops, whenever required. The actual value of a jageer depended, first, upon the degree of the rank of the munsubdar; and secondly, upon the number of months for which the assignment was granted. These considerations will suggest the rules to be observed in the revision of the sunnuds; but it is first necessary to explain the restrictions, by which a munsubdar, in possession of a jageer, was prevented from receiving more than he was entitled to."

Jageerdars held accountable for any *towfeer*, or overplus, received from the rents of the lands assigned to them.

"As an eqivalent for the pay which a munsubdar was entitled to receive, either on account of his personal allowance, or that of the troops under him, he received possession of certain lands, the rent of which was calculated in daums, according to the assessment of TOORUN MUL. If they were found to produce more than the jageerdar was entitled to, he was obliged to account for the overplus, under the denomination of *towfeer*, or excess. This obligation extended also to any arrears of the rents of the lands assigned in jageer, for the time which had elapsed previous to his acquiring possession; or to any anticipation of rents, in case of his dismission, previous to that period. And secondly, a proportion was deducted from the amount of the assignment for any deficiency in the number of effective troops which he was obliged to maintain. It was often usual, in assignments of any considerable amount, to suspend a part thereof, until the accounts of the munsubdar had been adjusted. To render these restrictions more binding, a jageerdar was obliged to sign an obligation, previous to the receipt of his grant, making himself accountable for whatever might be due on the above grounds. The following instance, in proof of the strictness with which the Government exacted the towfeer, is so remarkable, that I shall insert it at length from a book of good authority.* BURKUNDAZ KHAN, and other munsubdars, having obtained an as-

* A *Dustoor-ool-amul*; or book of regulations and forms; written in the Fusly year 1137, by ANUND RAM, *Nooskhah-nevees* in the dewany duster of Illahabad.

signment

signment for their pay in the pergunnah Beranee, they laid claim to the possession of the whole district, as the amount of the rents of it in daums corresponded exactly with that specified in the vizier's assignment. The dewan refused his assent, and insisted upon their receiving their pay in money; which compelled the munsubdars to accept the assignments according to the established rules, and these left them no portion of the towfeer. By this adjustment, the Government was saved from a loss of 1,09,791 rupees, being the excess of the rents of the district, beyond the valuation of TOORUN MUL. If therefore a revision of the sunnuds should take place, the following points must be attended to. First, the authenticity of the perwannah from the vizier: secondly, the number of months pay granted in the assignment: and lastly, the difference between this sum and the actual produce of the lands."

Description of the *Paibakee* mehal under the Moghul Government.

"UNDER the Moghul Government there was a certain mehal, or jurisdiction, consisting of such lands as were set apart for being granted in jageer, under the denomination of *Paibakee*. The other lands in the Soobah were called *Khalsah Mokurrery*, or fixed exchequer lands: these were supposed to be most productive, and were never granted in jageer. Under this jurisdiction, jageers, when resumed, or escheated, fell; and here the towfeer, or excess, was brought to the credit of the state; as well as the amount of arrears, or anticipations, for broken periods, as already explained. The produce of the three last articles was called the share of the Exchequer; and under this term the jageerdars were compelled to account for it. Such were the ancient and regular forms of the Moghul constitution regarding the dignity called munsub; and its appendage jageer; and from these it will appear that a jageerdar had not originally, or constitutionally, any right of property in the lands.

It appears, from what has been stated, that the jageerdar had not any right of property in the alleged lands.

What jageers in Bengal and Behar.

IN Bengal there are few jageers, and of no considerable amount: but in Behar they exist to the annual value of near four lacks of Rupees, according to the estimate upon which they were made over to the jageerdars. Four-fifths of these grants

When obtained in Behar.

And grant of them how far regular.

grants were obtained during the anarchy of the reign of SHAH ALUM's immediate predecessor; and at the commencement of his accession, when he invaded Behar. Under such circumstances, we are not to expect much attention to the forms, or to the spirit, of the constitution; and on examining several of those grants, it appears that most of them contain nothing more than a simple assignment of daums, without any specification of the rank of the munsubdars; the number of horse he was bound to entertain; or months for which he received pay; or whether the grant was conditional, or unconditional; nor the customary engagement to pay into the Khalsa the excess; or amount resulting from anticipated rents, or arrears of a broken season. Of eight grants which have been revised, two only specify any services to be performed. By a comparison however of the number of daums assigned, with the amount of the revenue lands delivered over to the jageerdar, most of the assignments will appear to be for four or five months, as in Bengal and elsewhere; and from the evidence of the oldest and most intelligent officers, it appears that, until the end of BEHADUR SHAH's reign, the regular forms were observed, and the accounts of the munsubdars examined with the usual severity. From these circumstances it is concluded, that the lands in Behar, assigned by the jageeree grant, were held under the same tenure as in other parts of the empire. It is also probable that many of the grants in Behar were fraudulently or surreptitiously obtained."

Circumstances to be considered in deciding whether the Behar jageers should be resumed.

"IN deciding the question, regarding the resumption of jageers in Behar, on account of informality and collusion in procuring them, or of the excess appropriated by the jageerdars beyond the assignment in the grant, many circumstances require consideration. I shall state such as occur to me. First, it is to be remarked, that the sunnuds in Behar have undergone three revisions; by MAHOMED REZA KHAN, in 1766; by Mr. VANSITTART, in 1771; and by Mr. BUSHBY, in 1783; and have been confirmed each time. Secondly, that under the sanction of these confirmations, the jageerdars have enjoyed the rents of the lands made over to them,

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in perfect security, without being compelled to account for any overplus, which they may receive beyond the amount of the assignment, or to perform any services. Thirdly, that the persons who held these lands have not any other means of subsistence? and if they were resumed, would be driven to poverty and distress. These considerations may indeed be shortened, and the whole reduced to this question—How far the faith of Government may be considered pledged to the possessors, under the acts described? and admitting it not be absolutely pledged, will policy and humanity warrant a decision that must reduce many of its subjects to distress? It may, on the other hand, be contended, that no fraud ought to receive a sanction from the inability of the Government to detect it; that a jageerdar, who benefits by the indulgence of Government, ought not to avail himself of that indulgence, for a greater emolument than he is entitled by it to receive; and that he cannot have any claim to an immunity, merely because the Government has, from ignorance, suspended the exercise of its own rights, in reclaiming its just dues. Between these opposite considerations, I shall not at present offer any opinion. It may be further observed, that many persons now enjoying jageers have succeeded to them by virtue of inheritance, in direct violation of the constitution of the Empire. Such has been the lenity, or want of information, of the British Government in India."

Suggestion of the Court of Directors, for converting jageers into zemindaries; and remarks upon it.

"The Honorable the Court of Directors, from motives of humanity, have suggested the idea of attempting to convert the jageers into permanent property, by constituting them zemindaries. I have some doubts myself of the possibility of effecting this; and am of opinion that objections would be made by the jageerdars, upon a general principle which appears universally to govern the natives of this country, that of an attention to temporary actual advantages in opposition to permanent remote benefits. But there is another and stronger objection, that the lands held as jageers are actually at present portions of zemindaries, to the proprietors of which the jageerdars pay a stipulation under the name of malikanah.

This term means *the right of proprietorship.* There can be little doubt that the zemindars would not be silent in claiming their property, upon any attempt on the part of Government to assign it over in perpetuity to others; particularly those who retain their lands, and pay the rents thereof to the jageerdars. This is the case, as I am informed, with many zemindars, and a curious proof of the inversion of right and property. It may however be immediately declared, that no person shall be allowed to succeed to the possession of a jageer, by right of inheritance; and that all jageers, upon the demise of the possessors, shall revert to Government. This declaration is indispensably necessary to annihilate the idea, which appears to be entertained, that jageers are hereditable permanent property. If the Government should act inconformity to this declaration, the rents of all the jageers in Behar will in time revert to the Company. A decision on the previous question must also determine how far an investigation shall take place into the actual produce of the lands, with a view to the resumption of the towseer, or excess. To this the objections stated will not apply with the same force as to a total resumption. But, at all events, I deem it highly expedient that the most accurate account should be procured of the present state of the jageers in Behar; and of the possessors thereof; and for this purpose orders have been issued. With this account before them, the Board may be enabled to carry into execution any orders that the Court of Directors may think proper to issue respecting jageers, in case the question, which I have stated, should remain over for their decision."

It may be invariably declared, that all jageers, on the death of the possessors, shall revert to Government.

And measures taken, at the same time, to ascertain the present state of the jageers in Behar.

"This account has been compiled from authentic records, and good information. The proofs of what is here asserted will be found in the appendix, which contains a variety of information, of a detail too minute to be inserted in this account, without interruption to the connection of it. I cannot conclude without pointing out, for the notice of the Governor General in Council, the great assistance which I have derived from Mr. BARLOW, in the discussion of this subject. His abilities are never exerted with more zeal, than for the information or interest of his employers."

This account compiled from authentic records and information detailed in the appendix.

Assistance derived from Mr. BARLOW (now Sir GEORGE BARLOW,) in discussion of the subject.

(Signed) J. SHORE.

SECTION II.

RIGHTS OF UNDER-TENANTS.

FOR the reason stated in the preceding section, I must again have recourse to what has been left on record by Mr. SHORE, (now Lord TEIGNMOUTH,) as the result of his able and laborious investigation of the rights of all persons possessing a right and interest in the lands of these provinces; whether zemindars, separated talookdars, maliks, and other declared proprietors, who, with reference to the nature of their tenures, as holding directly from Government, may be denominated *superior landholders*, and *tenants in chief*; or the dependent talookdars and other inferior landholders, as well as the immediate occupants of the soil, who holding their tenures under the zemindars, and other proprietors of land standing between them and Government, may be classed under the general designation of *under-tenants*. I avail myself of this aid, on the present occasion, the more readily, because the propositions which accompanied Mr. SHORE's minute on the permanent settlement of Bengal, dated the 28th June 1789, and were stated to be *deduced from the arguments* in that minute, formed the basis of the rules passed in the same year, and in 1790 and 1791, for the prevention of undue exactions from the dependent talookdars and ryots; for consolidating the rents of the latter into one specific sum; and for prohibiting any new impositions upon them of whatever description; with other provisions meant to secure the ascertained rights of under-tenants; which were subsequently re-enacted, with amendments, in Regulation 8, 1793. These rules, which will be exhibited at length in the next section, cannot therefore be more properly introduced, than by the following extracts from the minute abovementioned.

Reason for having recourse to Mr. SHORE's minute of the 28th June 1789, which states the result of his able inquiries on the subject of this section.

"The rent of the land, through whatever channels it passes into the public treasury, is paid originally by the ryots, or the immediate cultivators of the soil. Their situation, not only on this account, but as being the most helpless and exposed to oppressions, ought

Extract from the minute referred to, concerning the ryots, or cultivators of the soil.

Notice of measures adopted by AKBER, as stated in his institutes.

A third of the medium produce of land claimed by him for the state.

ought naturally to attract the attention, and engage the interest, of the ruling power. By the institutes of AKBER we are informed, that when, from motives of justice and humanity, the Emperor ordered a settlement of the country to be made for ten years, he began by directing a measurement of the lands, and by fixing the rates of them, according to their qualities and produce. The proportion which he claimed for the state was one-third of the medium produce.* Whether this operation extended to Bengal,

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* See GLADWIN's translation of the *Ayeen Akbery*, vol. I. part III. from which the following is an extract, under the head *Of the division of the lands; together with some account of the revenues of Hindoostan.* "When his Majesty had settled the *guz* (or measuring yard, fixed at forty-one fingers,) the *tenab*, (a land-measure of sixty guz,) and the *beegah*, (containing a square of sixty tenab, or 3,600 square yards,) he next divided the lands into different kinds, and fixed a different revenue (*Khirâj*) to be paid by each. *Poolej* is that land which is cultivated for every harvest, being never allowed to lie fallow. *Perowty* is that which is kept out of cultivation for a short time, in order that the soil may recover its strength. *Checher* is that which has lain fallow three or four years. *Burijer* is that which has not been cultivated for five years and upwards. Both of the two first mentioned kinds of land, namely *poolej* and *perowty*, are of three sorts; viz. best, middling, and bad. They add together the produce of a beegah of each sort; and a third of that aggregate sum is the medium produce of one beegah; *one-third part* of which is the revenue (*dust-moozd*) settled by his Majesty." Mr. GRANT supposes an error in the translation, or a defect in the Persian original, of this passage. But two Persian copies, which I have examined, correspond with it; and the accuracy of Mr. GLADWIN's version appears to be incontestably established by the tables which follow, detailing the adjustment for a beegah of *poolej* land, cultivated with wheat, vetches, barley, or other products of the spring harvest and autumn harvest respectively, viz: 1st. the produce of a beegha of of the best sort of poolej land; 2d. the produce of a beegha of the middling sort; 3d. the produce of a beegha of the worst sort. 4th. the aggregate produce of three sorts. 5th. A third of the aggregate, or the medium produce of a beegha of *poolej* land. 6th. One-third of the medium produce, being the proportion fixed for the revenue; here denominated *pâzung*. These tables however relate chiefly to grain, pulse, and cotton; and it is stated that for musk, melons, onions, aniseed, and pot-herbs; as well as for indigo, poppies, the paun leaf, turmeric, hemp, and other specified articles; the revenue was ordered to be paid in ready money, at the rates fixed in separate tables. *Perowty* land, when cultivated, was assessed with "the same revenue as *poolej*." But for *checher* land, which had suffered from excessive rain, or inundation, so as to lie fallow three years, and become difficult of cultivation, the husbandman was allowed to pay two-fifths of the *established rate for poolej* (not two-fifths of the *produce*, as stated by mistake in the printed translation,) in the first year; three-fifths in the second year; four fifths in the third and fourth years; and the full rate in the fifth year. A charge of five per cent, and a measuring fee of one daum per beegha, which appear to have been taken in addition to the established revenue from *poolej* and *perowty* lands, were also to be paid in the third year for *che-*

cher

I know not. TOORUN MUL is supposed to have fixed the rent payable by the ryots, but by what rules he settled it, we are not certainly informed.* The assul jumma established by him does not now any where exist. All present, no uniformity whatever is observed in the demands upon the ryots. The rates not only vary in the different collectorships, but in the pergunnahs composing them; in the villages; and in the lands of the same village; and the total exacted far exceeds the rates of TOORUN MUL. Where these variations take place by any established rules, founded on the quality of the soil, its produce, and the uses to which the land is applied, however perplexing they may be to the collector, or other officers of Government, I do not deem them of material inconvenience to the ryots, who from usage understand them, and can tell when they are exposed to exactions. But the standard is often so indeterminate, that the ryots neither know what they have to pay, nor can the officers of Government, without the most difficult investigation, ascertain whether they have been imposed upon or not. Of all subjects relating to the revenues, this, though the most important, is at the same time the most difficult to explain. I distrust my own knowledge upon it, and still more my ability to render it intelligible. I shall not, therefore, in this place, enter into all the detail that it admits, but confine myself to a few general principles of practice only."

Not uncertain whether TOORUN MUL adjusted the rent of the ryots in Bengal on this principle.

Present state of the land rents in Bengal.

"THERE are two fundamental distinctions in the tenures of the ryots, into which almost all the variations might be resolved. The first is, when the rents are calculated upon an *assul*, or original rate, with an addition of the cesses subsequently imposed. The

Principal distinctions in the tenures of ryots.
First, when the rents are calculated upon an original rent, and subsequent cesses.

cher land. The rates fixed for the gradual assessment of *bunjer* land, which had been so much injured by inundation, or otherwise, as to be uncultivated for five years, were still more favorable; and were adapted to local circumstances. It was further made a general provision, that "the husbandman may always pay his revenue in money, or in kind, as he may find most convenient;" and if he preferred a payment in kind, the division of the produce might be made either by *kunkoot* (an estimate or measurement of the crop whilst standing); or by *bhowulee*, called also *butaee*, viz. a division of the grain, after it is reaped or gathered. J. H. H.

* Vide pages 233 and 234.

imposition of these cesses is generally discretional. They differ in names, numbers, and amount, throughout the country. Their rates are variously regulated, at so much per rupee, or according to the number of months, and by other distinctions. The proportion of each is not calculated upon the *assul* only; but generally upon the aggregate of that and the preceding cesses; and so on progressively. The second is, where a fixed sum is paid for a specific quantity of land, at so much per begah, without any other distinction. The rate, in the first instance, may be settled with a due regard to the quantity of the land, and its produce. The ryots holding under this form are compelled to stand to all losses; to pay for the land, whether cultivated or not; and have no security against demand but desertion. There are two other distinctions of importance also, with respect to the rights of the ryots. Those who cultivate the lands of the village to which they belong, either from length of occupancy or other cause, have a stronger right than others; and may, in some measure, be considered as hereditary tenants; and they generally pay the highest rents. The other class cultivate lands belonging to a village where they do not reside; they are considered as tenants at will; and having only a temporary, accidental, interest in the soil which they cultivate, will not submit to the payment of so large a rent as the preceding class; and when oppressed, easily abandon the land to which they have no attachment. In general, throughout Bengal, the rents are paid by the ryots in money; but in some places the produce is divided, in different proportions, between the cultivator and zemindar. This custom chiefly respects lands under the denomination of *Khomar*. A ryot pays his rent either by a formal or implied agreement. The first is a deed called a pottah, which ought to express the nature and terms of his tenure; and the amount of his rent. It often however refers some of the conditions to indefinite rules; such as the custom of the village, or the pergunnah; the rates of an elapsed year; or the rent of his predecessor. The terms of an implied agreement are sometimes specific, as in Chittagong, where the rents are paid from year to year, according

Secondly, when a fixed sum is paid for a specific quantity of land.

Distinctions of *khoodkasht*, and *packasht*; resident and non-resident, cultivators.

Rents generally paid in money throughout Bengal.

Under what leases and agreements.

according to rates established upon a measurement of the lands in the year 1767; or indefinite, as having a reference to the rates of the last and preceding years, as in Nuddea. In some places, as in the northern parts of the Dacca district, the collections are made by a *hustobood*, or measurement of the land held by each renter immediately previous to the harvest; agreeably to which the lands are valued, and rents received. It would be endless to attempt the subordinate variations in the tenures or conditions of the ryots. It is evident, that in a country where discretion has so long been the measure of exaction, where the qualities of the soil and the nature of the produce suggest the rates of the rents, where the standard of measuring the land varies, and where endless and often contradictory customs subsist in the same district and village, the task must be nearly impossible. The collector of Rajeshahy observes upon this subject, "that the infinite varieties of soil, and the further variations of value, from local circumstances, are absolutely beyond the investigation, or almost comprehension, not merely of a collector, but of any man who has not made it the business of his life."

Many subordinate variations in the tenures of the ryots.

"THE distinctions above pointed out have a reference to some rule; but the abuses that subsist are great, and more important to be known. Amongst these the following may be enumerated. *First.* The arbitrary impositions of the zemindars, farmers, and others, to which the ryots are subject, which are generally measured by their supposed ability to pay them. The pretences for these impositions are various. The death of a zemindar, the birth of a son, or any increase by Government upon the zemindar, are some amongst the number. A stipulation is sometimes exacted, and without ceremony given, that these taxes shall terminate with the year: but they are seldom relinquished, without the substitution of others to an equivalent amount. *Second.* The want of formal engagements between the renters and the ryots. This is a very general complaint, as it renders it almost impossible to detect exactions. *Third.* The inequality of the assessment, to the advantage of the superior, and to the great injury of the inferior

Abuses to which the ryots are exposed in the payment of their rents.

Arbitrary impositions.

Want of formal engagements.

Inequality of assessment.

inferior ryots, established by the influence or impositions of the former. *Fourth.* The indefinite terms of the pottahs in some places, which neither specify the quantity nor the quality of the land, or rate of payment. *Fifth.* The arbitrary custom of levying the deficiency, occasioned by failures in some parts of the district, upon the other ryots. *Sixth.* The continual breach of engagements with the ryots, on the part of the zemindars or other landholders and renters. *Seventh.* The want of regular discharges to the ryots, for the rents which they pay. On the other hand, the ryots derive advantages, even from abuses. The want of engagements, or of precision in the terms of them, affords them opportunities of imposing upon the landlords. Artifice is opposed to exaction, and often with success. They cultivate lands of which there is no account; and hold them in greater quantities than they engage for; hence they are enabled to pay rents and cesses which appear extortionate. They hold lands at reduced rates by collusion; obtain grants of land fit for immediate cultivation, on the reduced terms of waste land; and by management with a renter at the close of a lease, procure fictitious pottahs, and accounts, to be made out, with a view to defraud his successor. It has been found that the ryots of a district have shown an aversion to receive pottahs, which ought to secure them against exaction; and this disinclination has been accounted for in their apprehension, that the rates of their payments being reduced to a fixed amount, this would become a basis of future imposition; but admitting this to have its weight, the objection may be also traced to other sources, in the preceding explanations. The collector of Rajeshahy informs us, "that he fears the ryots would hear of the introduction of new pottahs, with an apprehension that no explanation could remove."*

Indefinite terms of pottahs.

Exaction to supply deficiencies of other ryots.

Continual breach of engagements.

Want of receipts, or discharges for rents paid. Illicit advantages which, on the other hand, are derived by the ryots from abuses.

Aversion of the ryots, in some instances, to receive pottahs.

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* *The following extract of a letter from Mr. A. Seton, collector of the district of Behar, dated the 6th January 1793, describes fully the unwillingness of the ryots in that district to receive pottahs, and the grounds of it.*

"Had I not felt the advantages, which would result to the ryots from the demands of the renters being specified in writing, with clearness and precision, I must indeed have been destitute of discernment; while, on the other hand, to be aware of these advantages, and not to have exerted myself in carrying into effect regulations which

In almost every village, according to its extent, there is one or more ryot, known by a variety of names in different parts of the country,

One or more head ryot, known by different names, in every village.

which had the promotion thereof for their object, would have been an act of criminal inattention to my public duty. The fact, however, is that my endeavours to this head have been unceasing, and that though I have not yet succeeded entirely to my wish, yet the general spirit of the regulations has been introduced; and the ryots have been long relieved from those vexations, which the existence of *Abwabs*, and the want of precision in the demands of the zemindars or renters, formerly occasioned. Previous indeed to the commencement of the decennial settlement, these evils attracted the attention of Mr. Law, my predecessor; and it is but justice to say, that from his time may be dated, and to his zeal and exertions may be ascribed, the commencement of their abolition in Behar proper; where the spirit and letter of the 57th and 58th Articles of the regulations of the 23d November, 1791, have long been carried into complete effect. In endeavouring to carry into full and literal execution the 59th Article of the regulations in question, I have met with little or no opposition from the zemindars. My difficulties have originated with the ryots; who, in this part of the country, have an insuperable aversion to receive pottahs, or execute cabooleats, for specific quantities of land. The origin of this aversion is twofold; viz. partly an apprehension lest, from the decease or loss of their castle, kinsmen, or servants (by which term, I mean particularly to allude to *cummeas*, or ploughmen) they should be unable to bring the whole specified quantity into cultivation; and partly a dread lest, after having brought it into cultivation, the expected crop should be damaged, or destroyed, by drought, storms, or inundation. Of the 45 pergunnahs (including the jageers) which compose this district, there is not one in which I have not spoken with the ryots of several villages on this subject; and heard the same objection from all. It is not, therefore, from report, but from personal knowledge, that I state their sentiments. I well remember, that on my observing to a *Mahto*, or head ryot, belonging to a village not far from the jageer of the Newab Delawur Jung, "that the ryots refusing to enter into counter-engagements was hard upon the zemindars, as it prevented these last from estimating with precision the value of their lands," the man replied—"We ryots are sensible of this; but, as we are poor, and the maliks rich; and as they have many other advantages over us; it is but just that, in this respect, they should be bound, while we, in some measure, remain free;" adding, "if you will examine into the state of the Newab's jageer, you will see the bad effects of endeavouring to oblige the ryots to receive pottahs, specifying the quantity of ground they are to pay rent for." As the reply fixed my attention, I immediately made further enquiry, and found that the assertion was literally true; a number of ryots having actually left the jageer, in consequence of the Newab's manager having strongly urged them to receive pottahs, specifying the quantity of ground to be rented by them. Yet Hajee Jakoot Khan, the Newab's manager, is a very liberal and enlightened man; and appears to have had no object in view, but the prevention of chicane, and the further security both of the landholders and ryots."

"In consequence of this reluctance on the part of the ryots to enter into specific engagements, the following mode is pretty generally adopted in this part of the country. The zemindar signs, and deposits in each village, a voucher (which is, though somewhat improperly, called a pottah) specifying the rates and terms on which ryots

Described under the designation of *mundul*.

Power and influence of this class of men, and in what respects they have contributed to the growth of abuses.

country, who has, in some measure, the direction and superintendance of the rest. For distinction, I shall confine myself to the term *mundul*. He assists in fixing the rent; in directing the cultivation; and in making the collections. This class of men, so apparently useful, seem greatly to have contributed to the growth of the various abuses now existing; and to have secured their own advantages, at the expense of the zemindar, landlord, renter, and inferior ryots. Their power and influence over the inferior ryots is great and extensive. They compromise with the farmer at their expense; and procure their own rents to be lowered, without any diminution in what he is to receive, by throwing the difference upon the lower ryots, from whom it is exacted by taxes of various denominations. They make a traffic in pottahs; lowering the rates of them for private stipulations, and connive at the separation and secretion of lands. If any attempt is made to check their abuses, they urge the ryots to complain, and sometimes to resist. In Beerbhoom a striking instance of this has been exhibited. When an attempt was made to equalize the assessment of the ryots, by removing the burthen from the lower class, and resuming the illegal profits of the munduls, an immediate opposition was made; and the complaints came to Calcutta. The Government was obliged to interfere with a military force to anticipate disturbances; and at present the ryots are apparently averse to an arrangement

may cultivate land in that village. This voucher serves the ryots as a guide. If they approve of the rates, they take attested copies of the instrument, and cultivate as much ground as they can; though, for the reasons above specified, they will not engage for a certain number of beeghas. When the crop is ripe, the land is measured; and the ryot, or tenant, pays the rent thereof to the zemindar, according to the rates specified in the general village pottah. But in adjusting the accounts, it is always understood, though not indeed expressed in writing, that the ryot is only to pay *in proportion to the produce*; and that in the event of his crop having failed, or being damaged, he is to receive a proportional deduction, according to the rates expressed in the village pottah; and this indulgence it is, which chiefly renders the ryots so unwilling to engage to pay rent for specific quantities of ground; lest, if they did, they should be considered as obliged to pay rent for the whole, even though they might not have been able to bring it into cultivation. It is also understood, that the ryot has a sort of prescriptive right to continue in the ground thus occupied by him, while he adheres to the rates expressed in the village pottahs; in so much that I do not recollect an instance of a zemindar's having attempted to remove a ryot who had not been guilty of a breach thereof."

proposed

proposed for their benefit, and upon principles calculated to ensure it. On a former occasion, when a general measurement was attempted by the zemindar of the same district, as a basis of a general and equal assessment, the munduls, by a contribution, prevailed upon him to forego it. In Purnea, this influence has equally been exerted to interrupt the power and duties of the collector. In Rajeshahy, we are informed by the collector, that the head munduls are become the real masters of the land; and the first object of a zemindar should be to effect a gradual reduction of their power. The committee appointed to conduct the investigation in 1777, in their address of the 25th March, 1778, after describing, more in detail than I have done, the functions of a mundul, or mokuddum, make an observation upon this officer, which I think it material to particularize. "The mundul is therefore chosen from amongst the eldest and most intelligent inhabitants; and his influence and services depend solely on the good opinion of the ryots. It is not the interest of the zemindar to change him, as long as he preserves their confidence."* I admit the justice of this principle, and in considering the subject it merits attention. The point then to be ascertained is, from what cause an institution of so much apparent utility has fallen into abuse? The reply is obvious. The ignorance and incapacity of the zemindars and farmers on one side, and the inattention of Government on the other, to the preservation of the ancient forms of restraint. It would be too much to expect, that any set of men should forego the advantages held out to them by an abuse of their trusts, when all restraints and coercion are, from ignorance and inattention, removed. I shall here insert a remark of the committee before mentioned, which is agreeable to my own information and belief—"It appears to have been an established maxim in this country, that the accounts of the rents of every portion of land, and other sources of revenue, should be open to the inspection of the officers of Government. It was chiefly by the intimate knowledge, and the summary means of in-

Notice of munduls by the commissioners appointed in 1777.

From what cause the apparently useful institution of village munduls has fallen into abuse.

Further quotation from the report of Messrs. ANDERSON, CROFTS, and BOGLE.

* See the passage referred to in the report of Messrs. ANDERSON, CROFTS, and BOGLE, vol. II. page 67.

formation,

formation, which the Government thereby possessed, that the revenue was collected; and the zemindars were restrained from oppression and exactions. To the neglect of these ancient institutions, to the want of information in the Government of the state and resources of the country, may perhaps be justly ascribed most of the evils and abuses which have crept into the revenue."*

Office of canoongo.

In order to preserve the valuation and register of TOORUN MUL, the office of *canoongo* was appointed, and in this office, all the records of public accounts were kept. Naibs, or deputies, were stationed in different parts of the country, to mark the establishment of new villages, transfers of land, and other circumstances, which occasioned a change in the state of the country; and every sale or deed of transfer, the measurement, the boundaries and divisions of land, were registered by them with a minute exactness. These records were referred to, on every point that respected the finances or civil Government; and in all disputes concerning lands. They contained an account of all customs and variations in them; and served frequently as a guide in imposing or collecting the revenue; and as a check on the embezzlements and exactions of the zemindars and public officers. In the villages there were also officers for keeping the accounts of them, properly known by the name of *putwarries*, who were generally considered as hereditary; their accounts formed the basis of the canoongo's records; and in some places they are said to have been appointed by the canoongoes. At all events, whether they received their nominations from them or from the zemindars, or from any public officer, I conceive them to be servants of the state, and responsible to it for their trusts. In the institutes of AKBER, the several inferior officers for registering the accounts of the land and rents are recited under various denominations, some of which are no longer preserved; but the principle is there clearly established, and the correspondence of terms is immaterial. Of late years, and more particularly since the establishment of the English authority, the names and functions of the inferior officers

Village putwarries.

Names and functions of inferior officers have been confounded of late years; and the whole system has fallen into insignificance or abuse.

* See Vol. II. page 75.

have

have been confounded, and the whole system has fallen into insignificance or abuse. The canoongoes have been as ready to take advantage of this as others; and hence the office has been by some condemned as of no use, because little was derived from it. The conclusion is not warranted by the laws of reasoning. The apparent necessity for the revival of these institutions, and an observation of the abuses which have crept into them, seem to have suggested to some of the collectors the idea of their abolition, and the substitution of other officers in their stead. Thus the collector of Beerbhoom proposed the appointment of a sheristadar, to execute, with his assistants, the functions of the inferior canoongoes. The collector of Purnea, with a view to preserve regularity in the mofussil accounts, recommends the nomination of mohrirs and mutsuddies. The collector of Sylhet, on the contrary, proposes that the office of putwary should be new modelled by the canoongoes. In concluding this part of my minute, it may not be improper to hint at an evil, which more or less affects all orders of men, but falls particularly upon the ryots; I mean the great variety in the species of silver in currency, and the depreciated state of it. The discount levied upon the ryots is as arbitrary and discretional as any other species of taxation. One obvious remedy for this evil suggests itself. I mean a new coinage. But I shall not here anticipate a subject which has separately long attracted the attention of the Members of Government; and which they mean to take into their serious and collected consideration.*"

Conclusion, that the office of canoongo is of no use, not warranted by the laws of reasoning.

Notice of suggestions to supply the place of the former institutions.

This part of the minute concluded, with reference to an evil, affecting all orders of men, but particularly the ryots; viz. the variety of silver coins in currency, and the want of a new coinage.

"I now advert to the third subject of enquiry, the rules for preventing oppressions upon the ryots, by the zemindars and farmers; as well as collusions amongst the latter, tending to defraud the zemindars and farmers of their just dues. In determining this question, the rights of the zemindars, talookdars and ryots, ought to be first ascertained; and I shall here insert a summary of what I deem myself authorized to maintain upon these points; premising, that

In prescribing rules for preventing oppressions upon the ryots by the landholders, and farmers, it is necessary to ascertain their reciprocal rights.

Summary of what the writer deems himself authorized to

* See vol. II, page 606, and sequel.

maintain upon these points.

I pretend only to state facts, and draw such conclusions from them as they fairly admit, without reconciling every apparent inconsistency, either in facts or forms."

Rights of zemindars.

"I CONSIDER the zemindars as the proprietors of the soil; to the property of which they succeed by right of inheritance, according to the laws of their own religion; and that the sovereign authority cannot justly exercise the power of depriving them of the succession, nor of altering it, when there are any legal heirs. The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right; and was exercised by the zemindars before we acquired the dewanny. The origin of the proprietary and hereditary rights of the zemindars is uncertain. Conjecture must supply what history does not mention. They probably existed before the Mohummudan conquests; and without any formal acknowledgment, have acquired stability by prescription. I do not admit the sunnud, which the zemindars sometimes receive, to be the foundation of their tenure; which, though it may acquire confirmation from it, exists independent of this deed. The origin of the possession of some zemindaries may be traced to a grant; but the inheritance goes on without it. The revenues of the land belong to the ruling power; which being absolute, claimed and exercised the right of determining the proportion to be taken for the state. The rights of the zemindars are limited and conditional. They cannot alienate lands from the public assessment, without the permission of the supreme authority; they are bound to make good their stipulated payments of revenue, under the penalty of suffering an equivalent loss of property, or of being deprived of the whole; and it is also their duty to preserve the peace of the country from infringement; and to secure their lands from inundation, by repairing the embankments of the rivers. The performance of these functions supposes the means of discharging them to be left with the zemindars. Formerly, their services were required for the defence of the state, against rebellion or invasion, when they posses-

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sed the means of furnishing this assistance. This obligation was chiefly exacted from the principal zemindars; but was binding upon all. The Government, in virtue of its claim to a portion of the rents, considered itself entitled to the minutest information regarding the land, its produce, the rents paid by the ryots, and all transfers of possession. The duty of the mofussil canoongoes was to record and furnish this information; and the accounts formerly kept by them were calculated to afford it. The sanction of Government was often given to sales, mortgages, and successions; but the want of it did not, as far as I know, render them invalid. No alienation of land by the proprietor, or diminution of the rental, could deprive the supreme authority of its title to the revenues of the lands. It of course exercised the right of resuming such alienations; and of re-annexing them to the public assessment; as well as of enquiring into fraudulent diminutions of the jumma. The Government sometimes interfered in regulating the rents paid by the ryots; and in some cases employed it's own officers to collect them. JAFFIER KHAN's conduct offers a precedent of an interference to the exclusion of the zemindars; and the institutes of AKBER SHAH, that the relative proportions of the produce were settled between the cultivator and the Government: yet in Bengal I can find no instances of Government regulating those proportions. Although the nazims have attempted to collect the rents from the ryots, those attempts have been partial only, and do not warrant an inference that they were systematically pursued; which I do not believe was the case. The practice of appointing an officer, to superintend and control the conduct of the zemindars, was a more limited exercise of this authority, and was more general. This is established by a variety of instances. The officers thus employed were denominated aumils and sezawuls. Admitting the proprietary rights of the zemindars, wherever Government supersedes the rights properly connected with them, by collecting the rents from the ryots through its own officers, it follows that some provision should be made for the subsistence of the zemindars. I cannot find that this was ever formally done in Bengal; nor can I learn

that

that the Moghul Government in this Soobah, ever established the portion of the rents to be paid by the zemindar; the profits which he was to receive; or the allowance to be made to him, in case of his temporary dispossession. I conclude that the rules of limitation in these instances were never fixed. The settlement of TOORUN MUL appears to me to have furnished the standard for the demands of the state upon the zemindars, from the period of its establishment, to the administration of JAFFIER KHAN; unless the measures of SULTAN SUJAH, of which I have no accurate information, should be deemed an exception. The augmentation of the general assessment by him was moderate. Zemindars, during this interval, enjoyed the profits which they received, over and above the stipulated standard; and when they were temporarily dispossessed of the management, retained their nankar lands only, without receiving any additional allowances. When a zemindar was deprived of his property, his right to the nankar ceased, and was transferred to his successor. The variation in the public demands from the standard of TOORUN MUL, for a period of one hundred and twenty years, was so small, that the profits of a continued management would furnish a subsistence during a temporary dispossession. That the zemindars were often taxed by the nazims, or their officers, for their private emolument, beyond the established demands, must be deemed probable; and during the period in question they could afford it. Rights depending upon the discretion of the ruling power must be deemed precarious. Despotism could extend its claims to the subversion of the rights of the zemindars, without an avowed and direct infringement of them: but its practice, generally speaking, has been in favour of them. The zemindars of Bengal were opulent and numerous in the reign of AKBER, and they existed when JAFFIER KHAN was appointed to the administration. Under him, and his successors, their respective territorial jurisdictions appear to have been greatly augmented; and when the English acquired the dewanny, the principalzemindars exhibited the appearance of opulence and dignity. A property in the soil must not be understood to convey

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the same rights in India, as in England. The difference is as great as between a free constitution and arbitrary power. Nor are we to expect, under a despotic Government, fixed principles, or clear definitions of the rights of the subject. But the general practice of such a Government, when in favour of its subjects, should be admitted as an acknowledgment of their rights. From these *data*, others may be enabled to place the subject in a clearer light; and to reconcile the principles of right with the practice of an arbitrary Government. I have endeavoured to point out what it actually left to its subjects, under the assertion of claims apparently calculated to leave them nothing. This part of the precedent is most worthy of our imitation."

Talookdars, who pay their rents to the officers of Government.

TALOOKDARS, who pay their rents to the officers of Government, are in all material respects on the footing of zemindars; but they enjoyed a privilege which has of late years been invaded, that of an exemption from an augmentation of their rents; and on the other hand they have obtained remissions. Those who pay to the zemindars are more dependant; but it is a general rule, I believe, that their rents shall not be liable to augmentation at the will of the zemindar. That they were subject to a proportion of the increase demanded from him, must be understood; but since the increase and deductions have been imposed and granted upon an estimate only, without reference to any fixed rule, or rate, the variations of practice with respect to talookdars will be found to supersede all rule. A talookdar of either description, who has once been allowed a remission, is subject by prescription to a future increase: where he has paid the same rents invariably, from the establishment of his tenure, he is not liable to it. The terms of the conditions, by which he holds his talook, are sometimes special; and furnish the particular rules to be observed between him and the zemindar."

Dependant talookdars, who hold their tenures under zemindars.

In what case talookdars, of either description, are subject to an increase in their payments.

General view of the rights of ryots.

WITH respect to the ryots, their rights appear very uncertain and indefinite. Whilst the demand of Government upon the zemindars was regulated by some standard, as I conclude it was

 from

from the time of TOORUN MUL to that of JAFFEER KHAN, they had little temptation, or necessity, to oppress their ryots: but the same variable discretion, which has affected the payments required from them, has extended in the same manner to the ryots. The rates of land were probably fixed formerly, according to the nature of the soil and its produce; the cesses imposed by the zemindars were an enhancement of these rates, and arbitrary, without being at first oppressive. It is however generally understood, that the ryots by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorize them to sell or mortgage it; and it is so far distinct from a right of property. This, like all other rights, under a despotic, or varying, form of Government, is precarious. The zemindars, when an increase has been forced upon them, have exercised the right of demanding it from their ryots. If we admit the property of the soil to be solely vested in the zemindars, we must exclude any acknowledgment of such right in favour of the ryots, except where they may acquire it from the proprietor."

A further detail of what regards the ryots.

"ALTHOUGH much has been said with respect to the ryots, I shall nevertheless enter into a more particular detail of what regards them. In every district throughout Bengal, where the licence of exaction has not superseded all rule, the rents of the land are regulated by known rates called *Nirkh*, and in some districts each village has its own. These rates are formed, with respect to the produce of the land, at so much per beega. Some soils produce two crops in a year, of different species; some three. The more profitable articles, such as the mulberry plant, beetle leaf, tobacco, sugar cane, and others, render the value of the land proportionally great. These rates must have been fixed upon a measurement of the land; and the settlement of TOORUN MUL may have furnished the basis of them. In the course of time cesses were superadded to that standard; and became included on a subsequent valuation; the rates varying with every succeeding measurement. At present, there are many *Abwabs* or cesses, collected distinct from

Nirkh or rate, by which the rents are regulated.

from the nirkh, and not included in it; although they are levied in certain proportions to it. The following abstract of a ryot's account, taken near eight years before this time, will shew the mode in which this is done:

Abstract of a ryot's account.

Rent of seven beegas, twelve cottahs, seven chattacks, of land, of various produce, calculated at a certain rate per beega, according to its produce; (extracted from an account of demands and payments, called *Hissab Khurcha.*)

	Rs.	As.	Gs.
	14	0	8

ABWAB OR CESSES.

	Rs.	As.	Gs.	Ct.	Rs.	As.	Gs.	Ct.
Choul, at 3-16ths per rupee, ...	2	10	0	0				
Poolbundy, a half month's demand, or 24th of the jumma, ...	0	9	7	2				
Nuzzerana, one month, or 12th,....	1	2	15	0				
Maungun, ditto ditto, ...	1	2	15	0				
Foujdary, 3-4ths of one month or 1-16th, ...	0	14	15	0				
Company's nuzzerana, one month and a quarter, ...	1	7	0	0				
Batta, one anna per rupee, ..	0	14	0	0	8	12	2	2
Total					22	12	10	2
Khelat, at one anna and a half per each rupee of the above sum, ..					2	2	1	2
Total					24	14	12	0

THE first sum of rupees 14 0 8, is called the original rate of the land; but even this may include cesses consolidated into it. Some of the abwab, or cesses, since added, are subsequent to the period of the dewanny. If the accounts of the same land were now examined, some additional impositions might appear. The zemindars introduce them by degrees, at intervals of two, three, four, or five years; and rarely attempt them for two or three years successively. Solicitation and influence are equally employed to effect the establishment of them; and a ryot, where the burthen is not too heavy, will rather submit than resist or complain. Temporary extortion may be practised at any time, but

Manner in which additional impositions are introduced.

but a permanent exaction of this nature can rarely be established by force alone upon the ryots. Theeka pottahs generally express a fixed rate for the land, at so much per beega, without any other article; but the sum total includes the several existing cesses at the period of adjustment, and others are sometimes again added and consolidated. When the rents by successive impositions become too heavy, the ryots either abscond, or the zemindar allows them a compensation by giving them other land at a favourable rate; but seldom either by remitting the imposts, or diminishing the rates, of the other lands. In some places, however, the accumulation of abwab has caused a proportionate diminution in the assul; this is particularly the case in Dinagepore. When a measurement of the lands takes place, the existing rates are confirmed, and generally with some additions. Where none can be found, a reference is made to the rates of other lands of the same quality, in the vicinity of the spot measured; but the adjustment of them, in that case, is a business of considerable difficulty. Every part of the transaction is a subject of contention; the demands on both sides are unreasonable; and are finally terminated by a compromise. It is the business of the putwary to register these rates, which were also formerly recorded by the mofussil canoongoes; and these, when wanted, became open to the inspection of the Government. It would be impossible, I conceive, to fix specific rates for any one species of produce, in any district generally; the quality of the soil and the situation of the land, as enjoying the advantages of markets and water carriage, must determine it. The remark applies to every species of produce. Where the rates of land are specific and known, a ryot has a considerable security against exaction, provided the officer of Government attends to his complaints, and affords him redress; and without this he can have none. The additional security which he derives from a pottah, supposing it to be properly drawn out, is this; that it specifies, without reference to any other account, the terms upon which he holds the land, and the amount of the *abwab*, or cesses, which are not mentioned in the *nirkhbundy*, nor always

Impossibility of fixing general specific rates upon the produce of land.

But the ryots secured from exaction by such rates, where known.

Additional security derived from a pottah.

always in the *jummabundy*. In those places where the accounts are kept with the most regularity, and the established rates adhered to, the annual adjustment of the rent to be paid by each ryot is not made without difficulty. The usual mode is to form a survey of the ground, and compare it with the accounts of the former year, in which every species of cultivation is specified, together with the relative situation of the land. Where the general appearance of the land corresponds with the detail of it in the accounts, the rent is adjusted without much difficulty; but where it differs, either by exhibiting a greater quantity of land in cultivation, or any article of a superior quality on the same land, the rents of such land are demanded, and a measurement is often adopted to determine them. The nature of the business shews that it can only be effected by a person well versed in it. In the ordinations of the Emperors, the officers employed in the collections are constantly encouraged, and required, to preserve the more valuable species of produce. I suppose that the rents in Bengal may be collected according to ascertained rates, throughout two-thirds of the country; and notwithstanding the various abuses which I have detailed, it is evident that some standard must exist; for, without it, the revenues could never be collected from year to year as they have been. Exactions on one side are opposed by collusions on the other; but we may with certainty conclude, that the ryots are as heavily assessed as ever they were. The land is divided into *ryotty* and *komar*. The rents of the former are paid in money; and of the latter in kind. The usual division is half to the zemindar, and half to the cultivator; but some part of the expenses generally falls upon the latter, in addition to the stipulated proportion. Pottahs to the *khoodkasht* ryots, or those who cultivate the land of the village where they reside, are generally given without any limitation of period; and express that they are to hold the lands, paying the rents from year to year. Hence the right of occupying originates; and it is equally understood as a prescriptive law, that the ryots who hold by this tenure cannot relinquish any part of the lands in their possession, or change the species of cultivation,

Usual mode of adjusting the rents, payable by the ryots.

Rents in Bengal supposed to be regulated by ascertained rates for about two-thirds of the country.

Division of lands into *ryotty* and *komar*.

The rents of the latter paid in kind; and in what proportion.

Nature of pottahs usually given to khoodkasht ryots; and prescriptive rights derived from them.

cultivation, without a forfeiture of the right of occupancy; which however is rarely insisted upon: the zemindars demand and exact the difference. I understand also, that this right of occupancy is admitted to extend even to the heirs of those who enjoy it. *Paekasht* ryots, or those who cultivate the land of villages where they do not reside, hold their lands upon a more indefinite tenure. The pottahs to them are generally granted with a limitation in point of time; and where they deem the terms unfavourable, they repair to some other spot. Such are the general usages and practice, as far as I have been able to ascertain; but there are local customs which can only be known by an examination on the spot. In some parts of the country, I understand that the zemindar is, by prescription, precluded from measuring the lands of the ryots, whilst they pay the rents according to the pottah and jummabundy. Amongst the inconveniences and abuses which may be inferred from this detail, the principal appear to be these--1. The gradual introduction of new impositions. 2. The number of them, and intricacy attending the adjustment of the ryot's accounts."

More indefinite tenure of paekasht ryots.

Local customs exist, besides the general usages and practise, which have been mentioned.

Notice of principal inconveniencies and abuses, to be inferred from the above detail.

I SHALL now proceed to state and consider the several propositions which have been made, at various times, for the introduction of regularity, and the correction of the existing abuses. Mr. FRANCIS proposed, that "it should be made an indispensable condition with the zemindar, that, in the course of a stated time, "he shall grant new pottahs to his tenants, either on the same "footing with his own quit-rents; that is, as long as the zemin-"dar's quit-rent remains the same; or for a term of years, as "they may agree. The former is the custom of the country. "This will become a new *assil jumma* for each ryot, and ought "to be as sacred as the zemindar's quit-rent. The pottah should "be expressed in the simplest terms possible, without a single "*abwab*, or *muthole*, so much per beega of land which he culti-"vates, varying only according to the articles of produce, or "quality

Consideration of propositions made for introduction of regularity, and correction of abuses.

Proposal of Mr. FRANCIS, respecting pottahs to ryots.

"quality of the soil."* By some it has been proposed, that the collectors should grant pottahs to the ryots; and we have, I believe, on some occasions, authorized this meausure; but of late the applications on this subject have been postponed for general consideration. It may be here proper, in addition to the observations which I have already recorded, to collect into one view the suggestions of the collectors upon this subject."

BEERBHOOM AND BISHENPORE.

Suggestions of the collector of Beerbhoom and Bishenpore.

"THE collector, after enumerating the various frauds and impositions which exist, and which seem principally practised by the head ryots or munduls, recommends the general distribution of pottahs throughout Beerbhoom, as necessary to guard against them, and proposes a form for this purpose. In additional security to the grand objects aimed at by the distribution of pottahs, he suggests the appointment of a sheristadar for each pergunnah. The description of the functions, to be executed by this officer, shews them to be of the nature of those formerly performed by the naib canoongoes, with some extension of authority. He communicates the regulations adopted by himself, for deciding upon the claims and disputes of the ryots. But in Bishenpore he does not recommend pottahs, for this reason; that it would preclude Government from the benefit of discovering frauds and collusions."

BURDWAN.

Circumstances stated by the collector of Burdwan.

"IN this zemindarry, the collector informs us that not more than a fourth of the ryots are in possession of pottahs, and that those are granted by the farmers, or their gomastahs, and not by the zemindar; that the rent paid by the ryots is regulated by custom and usage; and that the pottahs are not permanent; for

* Plan of settlement 1776, par. 60. Mr. FRANCIS adds in a note—"The amount of rent to be paid per beega, must be settled between the zemindar and his tenant. Government can never descend to the ryots, so as to fix any general assessment upon them, because the rates of land depend on a number of precarious circumstances; such as the quality of the soil, and the articles it produces, of which there may be variety in one village; besides the general argument of the vicinity to markets or watercarriage, which makes land of more or less value to the cultivator."

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where a more profitable species of cultivation is produced than before, the profit is accounted for by the ryots. Some of the pottahs, which I have seen, contain a condition to this effect. He further adds, that the distinctions in the tenures of the ryots render any general form of pottah impracticable; nor is a fixed quit rent possible, either upon the quantity of the land, or the quality of the produce, as the latter varies from accidental causes. In obedience to orders, he has nevertheless, with the assistance of one of the ablest zemindary officers, drawn out the form of a pottah; observing at the same time, that the constant opposition to all innovations, in mofussil management, renders its success doubtful. In addition to this detail, I must further add, what I believe to be a fact, that the zemindary of Burdwan is at present in the highest state of cultivation throughout, although the ryots there are taxed heavier than in any district in Bengal."

DACCA.

Mode of adjusting the rents, by measurement, in the northern parts of the Dacca district.

"THESE remarks apply to one division of the province only. The Collector, Mr. DAY, informs us, that the mode of collecting, in the northern parts of the Dacca district, is by making a hustobood, or measurement, of the lands held by each renter, immediately previous to the harvest, agreeably to which the lands are valued and rents received. He apprehends the same mode prevails elsewhere; and that nothing can be more discouraging to the renters. The zemindars, in general, enter into no engagements with the ryots; but collect what they can. Allowed remissions never extend to ryots. The impositions are said to be numerous and unascertainable; and the want of engagements renders it impossible to detect abuses. This will require immediate remedy; and he proposes that the zemindars shall be compelled to enter into engagements with the ryots, for the period of their own leases. He sends the form of a pottah."

MOORSHEDABAD.

Various forms of pottahs proposed by the collector of Moorshedabad.

"THE collector proposes various forms of pottahs, according to the rates of the lands, and the fixed or occasional residence of the

ryots

ryots. He observes that these rates have been formed from a minute inspection of the mofussil accounts; the pottahs of the ryots, and a mensuration of at least one village in each pergunnah; that the ryots, from all parts, came and examined the accounts, and approved the form; a time was allowed for objections, but none were made."

CHITTAGONG.

Rents in Chittagong collected according to an established jummabundy.

"THE rents of this district are collected by rates, established on a measurement and jummabundy, formed in the Bengal year 1174. It has never been the custom to grant pottahs to the fixed jummabundy ryots, who would refuse them, on an idea that the zemindars might then grant pottahs to whom they pleased. The rates and rules of assessment do not vary; and the jummabundy being established, impositions on the ryots are easily ascertained and redressed."

NUDDEA.

In the district of Nuddea the collections from the ryots are regulated by the amount paid in the last and preceding years.

"THE collections from the ryots in this district are regulated by the amount paid in the last and preceding years. Without a measurement and jummabundy, the custom of granting pottahs, and collecting by them, could not be introduced, as the quantity and quality of the land must form the basis of an equal assessment; and both, with the rates, ought to be specified in the pottah. In Mahomed-Ameenpore, which forms a part of the Nuddea collectorship, the same rule of collection prevails; but a hustobood was formed from the mofussil papers in 1178, Bengal style, by Mr. LUSHINGTON. No oppressive impositions have since been made; the ryots do not desert; and their situation appears tolerably satisfactory. In Satsyka, and other places under the same authority, the usage is similar."

JESSORE.

New pottahs at specific rates of assessment upon the actual jummabundy.

"THE various inequalities in the rates of assessment, and the abuses prevailing, are related by the collector; and suggested to him

Suggested by the collector of Jessore.

the recommendation of abolishing the present pottahs and granting others. He proposes the form of a pottah, which has been drawn out with the concurrence of the canoongoes. The object of this is to fix specific rates, at which each article of assessment upon the *assul jumma* is to be collected; and not a specific sum for a given quantity of land, which would be impossible, unless a general measurement and new valuation of the lands were authorized. I am not sure that I understand the proposition. The collector discusses at large the subject of granting pottahs, and the mode in which it should be done, and his arguments merit attention; but I have extracted in this place, whatever appears material to the question, in one point of view only. It may, however, be proper to advert to a custom subsisting in Jessore, viz.—That the nominal rate of land is three rupees per beegah; but that the real rate is only one; as the ryots possess fifteen beegahs, where their pottahs state five only; and upon this last quantity, the assessment of three rupees for each is made."

RAJESHAHY.

Objections to new pottahs stated by the collector of Rajeshahy.

"I COULD wish that the information on this extensive district had been more particular: the material part of it, relating to the present question, is as follows:—That there is no difficulty for a capable mohrir to detect oppression on a ryot, as far as the enquiry depends upon his pottah, except where the batta is adjusted. That the ryots would hear of the introduction of new pottahs with an apprehension that no explanation could remove; and that he cannot transmit forms of pottahs, to be executed by the zemindars and farmers, to the ryots. That the rates of land may be procured; but that the great difficulty still remains unconquerable to any body but a zemindar, of ascertaining the quantity."

DINAGEPORE.

Proposition of the collector of Dinagepore for granting pottahs on a new principle; that of apportioning the

"THE abuses detailed sufficiently point out the necessity of regulating the demands upon the ryots by some rule. The collector accordingly proposes the introduction of pottahs, but in a mode different

different from all others. He assumes the demand of Government out upon the zemindar, as the foundation of what is to be apportioned through the pergunnahs and villages, and thence to graduate to the ryot by certain rules. The settlement, when it arrives at this gradation, is to be assessed upon the land, at a fixed rate per beegah. He states the difficulties attending the execution of this plan, and the means of counteracting them; and observes upon it, that in the opinion of intelligent people, no other mode for the introduction of pottahs can take place. He proposes that no pottahs should be valid without the collector's signature."

demand of Government upon the zemindar, to the pergunnahs, villages, and ryots.

SYLHET.

"Of this district little need be said, as the very peculiar circumstances of it, have induced the Board to order a measurement of it, which is now under execution."

A measurement ordered of the Sylhet district.

RAMGUR.

The varying customs, of the different districts classed under this collectorship, render it difficult to lay down any rules for preventing abuses, which the collector only can prevent. It is usual for the zemindars to give *theeka* pottahs at the beginning of the year; but if the grain is dear, they insist upon being paid in kind. The remedy for this oppression is to punish exemplarily all abuses of this nature. No measurement has ever been made of Jelda. A form of a pottah is proposed, which, the collector thinks, will operate particularly well in Pacheat."

Varying customs of the districts which compose the collectorship of Ramgur.

RUNGPORE.

"The collector, as long ago as March 1787, proposed the form of a pottah in Karjeehaut, which is not yet effectually carried into execution. He now recommends a general form for the district under his charge, upon similar principles."

A general form of pottah recommended by the collector of Rungpore.

PURNEA.

"The detail of the situation of this collectorship is very minute.

Pottahs at a certain sum includ-

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ing *aſul* and *abwab*, proposed by the collector of Purnea.

It is proposed by the collector, that he should be allowed to grant pottahs, under the seal of the cucherry, at a certain sum, including rents and taxes; that by this mode the annual traffic, carried on by the munduls and putwaries, in pottahs, will be prevented; the demands of the zemindars will be limited; nor can the ryots lower the dues of Government."

24-PERGUNNAHS.

A general form, and register, of pottahs, already adopted in the 24-pergunnahs.

"A FORM of pottah has already been adopted for the lands under this division; and the collector informs us, that pottahs are granted according to that form, and a general register kept of them."

Objections to the immediate establishment of general rules; and necessity of adapting them to the local circumstances of each district.

"THIS detail, without extending it unnecessarily, points out the objections to the immediate establishment of general rules, and the necessity of adopting them to the local circumstances of each district. In deviating from established usages, we run a risque of substituting others of more detriment, in their room. No order of Government should ever be issued, unless it can be enforced; to compel the ryots to take out pottahs where they are already satisfied with the forms of their tenure, and the usages by which rents are received, would occasion useless confusion; and to compel the zemindars to grant them under such circumstances, or where the rules of assessment are not previously ascertained, would, in my opinion, be nugatory. When Mr. FRANCIS proposed that the zemindars should be compelled to grant pottahs to the ryots within a limited time, he was not aware perhaps of the little intercourse subsisting between the more considerable zemindars and the ryots; nor that pottahs are generally granted by the farmers, gomashtahs, and munduls of the villages. To require that the pottahs should be given for a definite time, as proposed by some of the collectors, would diminish the force of that prescription, which has established a right of occupancy in favour of the ryots. In some places, as for instance in Jessore, the issuing of pottahs, at present, would tend to the confirmation of the existing abuses; by which it appears,

pears, that the zemindar is more defrauded, than the ryots oppressed, notwithstanding the numerous taxes imposed upon them. In authorizing the collectors to grant pottahs to the ryots, we certainly deviate in some degree, from an established principle, which I always assume, that the zemindars are the proprietors of the soil. I have admitted, it is true, on the grounds of precedent, the right of the Government to interfere in regulating the assessment upon the ryots; but I object to the policy and propriety of this interference, without evident necessity. Where a zemindar has refused or evaded the execution of the orders prescribed to him for the security of his tenants, or is unable to execute them, the interference of the collector may be expedient. The regulation of the rents of the ryots is properly a transaction between the zemindar, or landlord, and his tenants; not of the Government; and the detail attending it is so minute, as to baffle the skill of any man not well versed in it. Where rates exist, or where the collections are made by any permanent rules, the interference of the collector would be unnecessary: where the reverse is the case, he would find it difficult to adjust them. Errors committed by a collector should not be left to the subsequent correction of a zemindar; but it is the duty of an officer of Government to correct those of the zemindars. Nothing but necessity should ever induce us to authorize the collector to fix the rates of assessment on the land. In trusting to established custom, and to the mofussil officers, under the inspection of the zemindarry servants, we have a more safe reliance, than the interposition of a collector, who has already sufficient employment to occupy his whole time. I do not see the same objection in authorizing him to affix his signature to the pottah, or jummabundy, of a ryot, after it has been settled by the zemindarry officers. I proceed to other propositions."

Propositions of Mr. HASTINGS and Mr. BARWELL, in 1775.

"Mr. HASTINGS and Mr. BARWELL, in their minute for the future settlement of the revenues, recorded on the 22d of April 1775, propose that all new taxes, which have been imposed upon the ryots, in any part of the country, since the commencement of the

Similar proposition of Mr. GRANT in 1788, for the dewanny lands.

Bengal year 1172, being the year in which the Company obtained the dewanny, be entirely abolished. Mr. GRANT, in his address of the 28th of February 1788, makes the same proposition with respect to the dewanny lands; but with a qualification which apparently removes part of the difficulties attending the proposition; adding, that the Company do restrict their annual demands upon those lands to the *assul*, *abwab*, *kifayet*, and *towfeer*, of the *maal* and *sayer*, or the ascertained legal exactions, at the time of the acquisition of the dewanny; to be levied in the form of a simple assessment; and to be subject only to a deduction of the established amount of all the mofussil charges and native management of the collections. I omit his propositions regarding the ceded lands, and the abatement suggested with regard to those and the dewanny lands. The consideration of Mr. GRANT's proposition will apply to the preceding. It does not follow, that a measure, proper and practicable in the year 1775, is equally so at this period; and although it may not be impossible to carry it into execution, I shall state my reasons why I think it ought not to be now attempted. Mr. GRANT's proposition is to be considered in two lights: first, as furnishing the standard for the demands of Government upon the country; and secondly, as establishing the rules for collecting the rents from the ryots. With respect to the first, I think we have, in the accounts supplied by the collectors, and their experience, a better standard for regulating the demands of Government. With regard to the second, it has been already observed, that the mode by which the demand of Government upon the zemindar was regulated, and that by which the rents of the ryots were collected, are different. Admitting that, in some instances, the ryots paid the taxes imposed by the nazims upon the zemindars, in the same proportions to the assul, and under the same denominations as the zemindars, this was by no means invariably the case: on the contrary, I hold the reverse generally to be true. In Nuddea, for instance, seven articles of abwab, out of the twelve specified by Mr. GRANT, were imposed upon the zemindars, viz. 1, *khasnoveesy*; 2, *nuzzerana-mokurrery*; 3, *zur-mul-hoal*;

Objections to the adoption at this period, of measures proposed.

What articles of abwab were imposed on the zemindars, and what collected from the ryots.

hoal, 4, *aluk*; 5, *surf-sicca*, an anna and a half; 6, *abwab fonjdarry*; and 7, *chout-mahratta*: and of these, only the two last were levied from the ryots. In Mahomed-Ameenpore, five were imposed upon the zemindars; and three of the five, *mulhout-feelkhanah*, *chout-mahratta*, and *surf-sicca*, an anna and a half in the rupee, upon the ryots. In Satsyka six were levied from the zemindars; and one only of the six, the *chout-mahratta*, from the ryots. This last is doubtful; but the ryots of Nuddea had, as long ago as the year 1724, been taxed with two articles, named *beekee* and *haldaree*, amounting to one anna six gundahs in the rupee; and in 1751 another was added, under the denomination of *subdhanee*, being about two annas in the rupee. If, therefore, we were to adopt Mr. GRANT's proposition, for restricting the demands to the twelve ascertained legal articles of exaction at the time of the dewanny, by which I understand those enumerated in his Analysis, we should exclude the three which had been previously established, and which to this day subsist, amounting to three annas 16 gundahs. To avoid the loss occasioned by such a defalcation, we must add the three to his list, in which they do not appear. This might be done where they are known, but should not take place at random. In Jessore, exclusive of fourteen articles imposed upon the zemindars by the nazims, twelve of which descended to the ryots, there were nineteen distinct articles collected from the latter. The *nuzzerana-mokurrery*, mentioned in Mr. GRANT's list, was not paid by them. In other districts, similar variations occur. What has been stated is sufficient to show the danger of complying with his proposition, without an accurate knowledge of the state of taxation, both at the sudder and in the mofussil, at the period of the dewanny. Without this, we should not know what we confirmed, nor what we rejected, of the mofussil taxes. I find no detail in Mr. GRANT's Analysis. The collector of Nuddea, in an address to the Board of Revenue dated the 6th March 1787, proposed the abolition of sundry taxes established in 1190, and 1191. Upon further inquiry, and subsequent experience, he found that deductions had been granted in lieu of them, and

in Nuddea, and other districts.

What has been stated is sufficient to shew the danger of adopting Mr. GRANT's proposition, without accurate knowledge of the state of taxation, at the time of the dewanny grant. Further observations upon the subject.

and that they were not so oppressive, as he first supposed. He accordingly recommended that the revenues should be collected agreeable to the rates of 1191. Thus practical experience corrects the errors of theory. The collector also of Jessore informs the Board of Revenue, in an address dated June 25th, 1788, that the old assul jumma is in many places extended, or else lost, in the accumulating taxes that have been subsequently added, and constitute the present jumma. The information of the collector of Dinagepore, to the same point, has been already quoted. In the Houghly district, a jummabundy was formed by Mr. LUSHINGTON in 1788, which has since furnished the rules by which the ryot's payments have been made. Now let us suppose that an order were issued for abolishing all taxes imposed since the dewanny; and trace the consequences. The zemindars and farmers, in the first instance, must revert to the accounts of that year, to know what taxes were collected from the ryots. It is probable, and I may venture to say certain, that the accounts in many places are lost; or so confused, as not to be traced; and in this case the measure would be impracticable. Let us suppose, however, that the accounts are forthcoming; the trouble of tracing, examining, and applying them, would be endless; and after all, it may be doubted whether the ryots would agree to the substitution of the rates of the period referred to, for those now paid by them; and whether they would benefit by the alteration. Considering the variations in the state of the mofussil since 1765, the application of the documents and records of that period would be difficult. The promulgation of such an order, as Mr. GRANT observes, is very easy; but the immediate consequence would be a diminution of the public revenue. This necessarily results from the abolition of the taxes imposed; and unless the old rates could be immediately revived and established, the loss would be certain during the first year; probably to the amount of one-fourth of the public revenue. After all, I see no advantage that would be gained by it. If the *assul jumma*, with the twelve *soobahdary abwab*, formed the measure of the ryot's payments, then indeed it

Consequences to be expected from an order for abolishing all taxes imposed since the dewanny grant.

it might be considered as a standard for the public revenue; and for limiting and ascertaining the rents paid by the ryots. But we have direct proofs to the contrary; and this, in my opinion, furnishes an incontrovertible objection to the adoption of Mr. GRANT's suggestion. The *nuzzerana-hal*, which existed to so large an amount in Dinagepore, is not mentioned in his Analysis. If there appeared to me any valid reasons for assuming the collections of 1765, as a standard for the rents from the ryots at this period, I should propose, in the first instance, that the collectors should be required to furnish an account of the rates of taxation at the former period; and to give their opinions whether the adoption of them would be practicable; and if it would be attended with any beneficial effects to the ryots, or with advantage to Government. Without this information, the promulgation of the order proposed by Mr. GRANT would infallibly produce, in my opinion, the greatest confusion throughout the districts; and a certain diminution of the present assessment. It would also load us with a detail, which we should find it difficult to get through. The necessity of the measure ought to be established beyond all doubt, to induce us to adopt it, with such probable consequences. These are the arguments which occur against the measure, as a general proposition. I will not assert that it may not be partially practicable, in particular instances; and if, from the reports of the collectors, which will be distinctly examined, this should appear to be the case, we may then adopt it, when it cannot be attended with the apprehended inconveniences."

Measures adopted for limiting the exactions of the landholders and farmers; and the collusion of the ryots.

Conditions inserted in the agreements for the five years settlement made by the committee of circuit, in 1772.

"I SHALL now state the measures which have heretofore been adopted for the purpose of limiting the exactions of the zemindars and farmers, and the collusions of the ryots, as well as the reasons which have prevented their operation. When the five years settlement was concluded by the committee of circuit, several conditions were inserted in the agreements of the farmers and zemindars, calculated for the security of the Government, and benefit of the tenants. Thus, they were prohibited resuming lands

applied to religious or charitable uses, exclusive of the original revenue land; and from collecting the various impositions known by the names of *bazee jumma*, *haldary*, *marocha*, *and selamy*. They were precluded making any new grant of *burmutter*, *&c.* They were directed to collect from the cultivated lands of the ryots, in the mofussil, the original jumma of the last and foregoing year, and abwab established in the present; and on no account to demand more. Where the lands were cultivated without pottahs by the ryots, they were to collect according to the rates of the pergunnah. By another clause, the rates of the former malguzary, and the pottah for the present year's cultivation, were to become the standard of the collections from the ryots; and penalties were enacted for a breach of this. The receipt of any *nuzzer selamy*, or *parbunny*, was prohibited. A mohrir was also appointed on behalf of Government to take comparative accounts of the sherista; and secret and clandestine collections were expressly prohibited. In explanation of a former article, it was ultimately fixed, that the assul and abwab of 1172, together with the abwab accumulated thereon, by the records of the sudder, since the year 1173, were to be consolidated, and to form the standard of the collections.* These regulations, though less accurate in terms than they might have been, had a reference to an established principle of collecting; and it is very apparent, that if they had been enforced, the present difficulties would not have existed; but the truth is, that they were not; and at the expiration of the five years, the state of the mofussil was less known than when the settlement took place. The farmers collected what they could; they measured their demands by the abilities of their tenants. Ignorance of the actual state of the mofussil was a bar to the detection and prevention of abuses. The Government, embarrassed by two opposite motives, the necessity of realizing the settlement which they had made, and a desire to prevent exactions, were sometimes obliged to support the farmers, and at other times to restrain them.

But the regulations of 1772 were not enforced; and the farmers collected what they could from the ryots.

* See amulnamah to the farmers of Nuddea, in which the several conditions stated are inserted at length. Appendix, No. 1, to the fifth report of the Committee of Secrecy, 1773.

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The effect, however, in both cases, was a deficiency in the public payments. The recall of the collectors, in 1781, contributed still further to involve all past experience in obscurity; and to multiply the confusion which prevailed. The cabooleeat then established has been since continued; and every succeeding farmer, by the terms of it, has deemed himself authorized to collect what his predecessor demanded. Hence every new cess has, in fact, become confirmed. The only observation, which I shall here add to this detail, is, that we are not to infer the inutility of the restrictions imposed, because they were not enforced; a distinction which may with great justice be applied to other measures of this Government."

Recall of the collectors, in 1781, productive of further bad consequences.

Inutility of restrictions not to be inferred from their not being enforced.

"I SHALL now consider the supposition, that nothing more is required from the zemindars, than an allotment of the jumma imposed upon their lands, through the pergunnahs and villages; and that they are left undisturbed in the possession of them, without any further attempts, on the part of Government, to ascertain their value; or interference in the detail. My own experience, as well as that of the committee of investigation, whose report I have quoted, has shewn that many inconveniences have resulted from an intention to the ancient institutions; particularly in suffering the office of the canoongo to fall into disuse; which was essential to the prevailing system of an annual variable jumma. For five successive years after our acquisition of the dewanny, the zemindarry of Rajeshahy paid a jumma of near twenty-eight lacks to Government; for the last fifteen years the average does not exceed twenty-one lacks. It has, at different periods, been placed under the management of the officers of Government, but without success. What is the cause of this defalcation? It may be, in part, owing to the depopulated state of the zemindary, the consequence of successive bad management; but it must, at the same time, be confessed, that our ignorance of the internal state of the district has deprived us both of the means of ascertaining the cause, and of correcting it by our own interference. We can only conjecture,

What effects might be expected from leaving the zemindars to make their own arrangements with their tenants, without interference on the part of Government, or keeping up the ancient institutions of the country.

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at present, the amount of the revenue to be demanded from the zemindar. The records of the canoongoes, if duly preserved, would have supplied what we want, by exhibiting what has actually been collected. We know also, that the zemindars continually impose new cesses upon their ryots; and having subverted the fundamental rules of collection, measure their exactions by the abilities of the ryots. This is a very serious evil; for, exclusive of the injury which the unprotected subjects of Government sustain from it, a necessity follows of our interference to regulate the assessment upon them; a task to which we are rarely equal. That it has been accomplished is admitted; but generally, I believe, either at the expense of Government, or its subjects; that is, the jumma is lowered, beyond what it ought to be; or kept up at too high a rate. The former is most often the case. I shall not urge these arguments beyond what is fair. In opposition to them, it has already been observed, that the demands of Government have been fluctuating; that the zemindars have had no certain security of enjoying the advantages arising from a due administration of their estates; and hence have wanted the encouragement, which the present system is meant to give; and have perhaps been forced into practices, which, under a permanent system, would have been forborne. But the ignorance and incapacity of the zemindars are not to be forgotten. The consequences are equally prejudicial to Government and its subjects; whether derived from this source, or any other. The security now to be given to the zemindars is more substantial than ever it was; and if the system proposed had been adopted when we acquired the dewanny, and successively adhered to, both the Government, and its subjects, would have experienced the benefit of it. Some time will now be required to convince the zemindars that we are serious; and a longer period elapse, before they can, or will, obtain a knowledge of their interests, and of the mode of conducting them. To eradicate those habits, and impressions, which have been continued through life, is scarcely to be expected during the present generation. Sufferance will at first teach them; and the stability of our measures must promote self-interest. Government

Time and experience are requisite to convince the zemindars of their true interests, in adopting a new course of conduct, founded on principles of good faith towards their under-tenants.

ment begins, by giving them an example of good faith. In relying therefore upon the operation of the principle which we assume, we ought not, during the progress of it, to abandon the ryots to caprice or injustice, the result of ignorance and inability. With knowledge, or the means of obtaining it, we may correct the consequences of both; and at present we must give every possible security to the ryots, as well as to the zemindars. This is so essential a point, that it ought not to be conceded to any plan."

The ryots therefore, in the interim, ought not to be abandoned to caprice, or injustice; but should obtain every possible security, in common with the zemindars.

Towards the conclusion of the minute, it is added—"The zemindars being secured in the enjoyment of their rights, we are next to provide for the security of their tenants; the farmers, and under-farmers, the talookdars situated within the jurisdiction of the zemindary, and the ryots. I shall enumerate the rules which occur to me, in distinct propositions, founded on the arguments and information in the preceding sheets." And the following rules, with others relative to a settlement with the superior landholders, were accordingly subjoined, in a paper entitled *propositions deduced from the arguments in the preceding minute*.

Concluding observation, with reference to the following propositions, founded on the preceding arguments.

15. "The settlement having been concluded with the zemindar, he shall be required to enter into engagements with the talookdars situated within his zemindary, and paying their rents to him, for the same period as his own lease, not liable to any increase or decrease during the term of it; and within three months after the conclusion of the settlement with the collector, the zemindar shall be required to deliver to him a record of the settlement entered into between him and the talookdars, specifying their names, the talooks, and the jumma payable by each."

Rule for settlement to be made by the zemindar with the talookdars within his zemindary.

16. "In order to prevent undue exactions, the following rules are to be attended to. That no zemindar be authorized to demand any increase from the talookdars under his jurisdiction, although he should himself be subject to the payment of an increase upon the jumma of the present year; except upon proof to the collector, that he is entitled to do so; either by the special custom of his district; or by the conditions, under which the talookdar, by

Further rules for preventing undue exactions from the talookdars.

 receiving

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receiving abatements from his jumma, has subjected himself to a demand for the increase; and that the lands are capable of affording it. If in any instance it be proved that a zemindar exacts more from a talookdar than he has a right to do, or should be guilty of oppression towards him, the talookdar shall be separated from his jurisdiction, and the rents thereof, in future, be paid to the officers of Government."

General rule for settlement of the remaining lands of a zemindary; viz. exclusive of dependent talooks.

17. "THE zemindar is to let the remaining lands of his zemindary, under the prescribed restrictions, in what manner he may think proper; but every engagement contracted by him with under-renters shall be specific as to the amount, and conditions of it; and all sums received by any zemindar, or renter, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount."

No person to collect the land rents, as contractor or agent, without a written commission from the zemindar or talookdar.

18. "No person contracting with the zemindar or talookdar, or employed by him in the management of the collections, shall be authorized to take charge thereof without an *amulnamah*, or written commission, signed by the zemindar or talookdar. Copies of all such commissions are to be deposited in the sudder cutcherry of the collectorship."

Provisional rules for the security of the ryots.

27. "WHEREAS from the ignorance, inattention, and oppression of the zemindars, the greatest abuses have been practised in the collections, and the ryots have been exposed to exactions, the following rules are now prescribed to all zemindars, talookdars, and persons entrusted with the revenues, for their immediate direction and guidance. That the rents to be paid by the ryots, by whatever rule or custom they may be demanded, shall be specific as to their amount. If by a pottah, containing the *assul* and *abwab*, the amount of both shall be inserted in it; and the ryot shall not be bound to pay any thing beyond the amount specified, on account of *khurcha*, *selamy*, or any other article. If by a *theeka* pottah, the whole amount payable by the ryots is to be inserted in it. If by any rule or custom, such as the payments of the last and preceding year, the rate of the village, pergunnah, or any other place,

place, an account is to be drawn out in the beginning of the year, shewing what the ryots are to pay by such rule or rate, and a copy of it to be given to them. Where the rents are adjusted upon a measurement of the lands after cultivation, the rate and terms of payment shall be expressed in the pottah. If by any established and recorded *jummabundy*, that is to be rule for demanding the rents. If the rents are paid in kind, the proportion which the ryot is to pay shall be specified, either in an account, or written agreement. In every mofussil cutcherry, the *nirkbundy*, or rates of land, shall be publicly recorded; and the zemindar is answerable for enforcing this regulation, under a penalty or fine for neglect, at the discretion of Government. For every village, a putwarry shall be established by the zemindar, for the purpose of recording the accounts of the ryots in that village; and a list of such putwarries shall be deposited in the sudder cutcherry of the collectorship, and in the cutcherry of the pergunnah where the village is situated. No farmer shall be allowed to remove a putwarry without the permission of the zemindar. If after the expiration of six months from the commencement of the year, upon a reference to the accounts of any village, for the purpose of deciding complaints, it should be found that no putwarry has been established, the zemindar shall be fined by the collector for such neglect. Where no nirkbundy of the land exists, the zemindar shall be bound to form the same, either for his whole zemindary, or such parts thereof where it may be wanted, within a prescribed period, to be determined by the collector. No zemindar, farmer, or person acting under their authority, shall be allowed to cancel the pottahs of the *khood kasht* ryots, except upon proof that they have been obtained by collusion; or that the rents paid by them, within the last three years, have been reduced below the rates of the nirkbundy of the pergunnah; or that they have obtained collusive deductions; or upon a general measurement of the pergunnah, for the purpose of equalizing and correcting the assessment. When the jumma of a ryot has been ascertained and settled, he shall be authorized to demand a pottah from the zemindar,

dar, or person acting under his authority, whether farmer, gomashtah, or other; and any refusal to deliver the pottah shall be punished by fine, proportioned to the expense and trouble of the ryot, in obtaining it. The zemindar is also required to cause a pottah, for the rent so adjusted, to be prepared, and tendered to the ryot. It remains with the zemindar to determine by whom the pottah shall be granted; whether by himself, farmer, gomashtah, or whom. No under-renter, without special permission from the zemindar, shall be empowered to grant pottahs beyond the period of his lease; and no agent to grant them, without authority from the zemindar or talookdar, when in possession of the lands; or of the manager, when the zemindar and talookdar are excluded. All existing leases to under-renters, and ryots, to remain in force to the period of their expiration, unless proved to have been obtained by collusion, or from persons not authorized to grant the same. Every collector, renter, or receiver of the rents, throughout every graduation, from the zemindar to the ryot, shall be compelled to give receipts for all sums received by them, and a receipt in full, on the complete discharge of every obligation: and any person complaining that a receipt has been refused him, upon establishing the charge, shall be entitled to double the amount paid by him, as damages from the person who received it. The receipts to the ryots are to specify the quantity of ground for which he pays rent, and the denomination of it, as being *khood kasht*, *paekasht*, or *comar*; with the rent received on account of each sort of land severally. In case any village, or district, should be affected by inundation or other calamity, causing the ryots to desert, it shall not be lawful for any zemindar, or renter, or collector of the rents, to demand the rents of the ryots who are fled, from those which remain. The zemindar shall not be authorized to impose any new abwab or muthote, on any pretence whatever, upon the ryots; and every exaction of this nature to be punished by a penalty, equal to three times the

amount

amount imposed. If at any future period, it be discovered that new abwab or muthote have been imposed, the zemindars shall be made responsible for the penalty, during the whole period of such impositions."

Permanent plan for the ease and security of the ryots.

28. "As the impositions upon the ryots, from their number and uncertainty, have become intricate to adjust, and a source of oppression to the ryots, the zemindars shall be compelled to make a revision of the same, and to simplify them, by a gradual and progressive operation, as follows:—They shall begin with those pergunnahs where the impositions are most numerous, and having obtained an account of them, shall, in concert with the ryots, consolidate the whole, as far as possible, into one specific sum; but so that, in no case, the sums demanded from the ryots, shall exceed three articles, viz: *assul*, *abwab*, and *khurcha*. Having prepared this account, they shall submit it to the collector for his inspection; after which it is to be enforced by the authority of Government; and any enhancement of the *abwab*, or *khurcha*, to be punished as an extortion. Where, by mutual consent of the ryots and the zemindars, the abwab can be wholly reduced and consolidated, it shall be done accordingly; and the rates of the land, according to the nature of the soil and the produce, be the rule for fixing the rent. The rents of each pergunnah in the zemindary to be annually adjusted in the same manner, until the whole be completed; and the exact proportion which the *abwab* and *khurcha* bear to the assul jumma, to be precisely determined. The zemindar is to be positively enjoined to regulate a certain proportion of his zemindary annually, so that the whole be completely performed within (a certain number of) years from the date of his agreement."

29. "Every zemindar and talookdar to be also compelled to prepare the form of a pottah or pottahs adapted to the circumstances of his zemindary and talookdary; and to lay the same before the collector; who, having approved the form, shall publish it, with a notification to the ryots, that upon application such pottahs will be given to them; and no pottahs under any other form shall be permitted."

30. "No zemindar shall be allowed to contract any engagements with any farmer, or authorize any act, contrary to the letter and meaning of these regulations."

The contents of the next section will shew to what extent the above propositions were ultimately enacted.

To what extent the above propositions were adopted in the rules ultimately enacted for the conduct of the zemindars, and other superior landholders, towards their dependent talookdars, ryots, and other descriptions of under-tenants, will appear from the contents of the next section.

And a corroboration of what has been stated, respecting the under-tenants of land in Bengal, may be found in a chapter of Mr. Colebrooke's *remarks on the husbandry* of that province.

Intention to quote largely from that work, and to state the result of further inquiries, with translations of title deeds and leases, necessarily relinquished.

This section concluded with some observations and suggestions relative to the ryuts, which were written in 1789.

If any corroboration be desired of what has been stated in the foregoing official document, relative to the under-tenants of land in Bengal, it will be found in a chapter of Mr. H. Colebrooke's *remarks on the husbandry* of that province, entitled *tenures of occupants*, &c. I had intended to quote largely from that work, in this part of my Analysis, and to state the result of my own inquiries on the rights of under-tenants, with translations of the tittle-deeds and leases, usually granted to them. But I find it impossible to do so, without extending this volume to an inconvenient bulk; and also want leisure to do justice to the subject. I shall therefore conclude this section with the following observations and suggestions, relative to the ryuts, which were written by me in the year 1789, when the rules connected with a decennial settlement of the land revenue were under consideration.

Two questions considered; 1st, what rights belong to the ryuts; and 2dly, what should belong to them for their security and ease.

"In determining the principle of a permanent settlement, the security and ease of the ryuts are important objects of consideration, both because they constitute by far the greater part of the community; and because the whole revenue paid to Government is ultimately derived from their labours. In a final adjustment of the rights of the several classes of landholders, therefore, what rights actually belong to the ryuts, and what rights should belong to them for their security and ease, are questions of the first consequence. In considering the former question, it must primarily be settled, what shall be deemed the standard of their rights? written

What standard of rights to determine the former question.

institutions,

institutions, or general usage? and if the latter, whether ancient, or modern. If the institutes of AKBER be appealed to as the criterion, the regulations therein laid down for the encouragement of cultivation, the division of the crops, and the guidance of the amilgoozar, or collector of the revenues, will, I conceive, be deemed to render it probable, that the payment of the ryut was regulated and fixed, according to general rules of assessment, by the officers of Government; although it does not appear that he possessed the proprietary right of alienation. If the general belief, of TOORUN MUL's settlement having long ascertained the demand on the ryuts, be well founded, an appeal to ancient usage will produce the same result. If the modern practise be referred to, it will, I believe, be found, that from the early part of the present century, the zemindars of Bengal have exercised a privilege of distributing the *soobahdary abwab*, on the ryuts within their zemindaries, nominally in some proportion to the standard jumma, but really according to their own discretion; subject to the occasional interference of Government to equalize the assessment of particular divisions, or abolish what appeared oppressive; and with some exception to the *khood kasht* ryuts; who have, in many parts, enjoyed the privilege of holding the possession of their lands, even hereditarily, at a fixed rent; the right of disposing of them by sale, gift, or other mode of transfer, still continuing, under limitations, with the zemindar, or talookdar, exclusively. This province, however, having, during a great part of the latter period, been held independent of the regular Moghul government; the introduction of the *abwabs* appearing to have been an innovation; and the great want of uniformity, which has obtained, shewing that no established system has been adhered to; it may perhaps be thought that no inference can be drawn from modern practise, to invalidate the conclusions made from ancient usage, and written institutions. Yet it should, at the same time, be remembered, that the usage of seventy or eighty years has, in a manner, established a new code of common laws; and that the property of the present occupants of the lands, whatever it may be, has, with few exceptions,

Inferences from the institutes of AKBER.

From ancient usage.

And from modern practice.

Observations upon modern practise.

And conclusion respecting actual rights of the ryuts.

tions, been acquired during this period. On the whole, therefore, I do not think the ryuts can *claim any right* of alienating the lands rented by them, by sale, or other mode of transfer; nor any *right* of holding them at a fixed rent, except in the particular instances of khood kasht ryuts, who, from prescription, have a privilege of keeping possession as long as they pay the rent stipulated for by them."

Second question considered separately, with regard to a right of property in the land, and a right of possession at a fixed rent.

Whether the ryuts should have a right of transfer by sale or otherwise.

"THE second question, what rights *should belong* to the ryuts, for their security and ease, it may be useful to consider separately, with regard to a right of property in the land, entitling them to alienate it by sale, or otherwise; and a right of holding the possession of it at a fixed rent.—1st, Should the ryuts have a right of transferring the land rented by them, subject to the rent assessed on it? It appears to me this right would be advantageous to the ryuts, by giving them a property available to supply their wants in time of distress; to make good their debts, when indebted; and to answer their convenience, when desirous of changing their occupation, or place of residence. I see no advantage that could arise from it to the zemindars, except perhaps a greater punctuality in the receipt of their rents, from the additional value given to the property of their tenants; in which respect it might also prove advantageous to Government; as well as in forwarding the general ends of agriculture and commerce. Disadvantages there could be none, to the ryut, from it. To the zemindar there might be. The choice of his tenant is important to him. By the transfer he may lose men of substance and responsibility, for men of a different character; and thereby be, at least, exposed to trouble, if not risk. The character of the purchaser may also be, in other respects, objectionable. With regard to Government, no disadvantage to be apprehended from it occurs to me. After weighing the above considerations, my opinion is, that were the ryuts alone to be considered, the privilege of transferring the lands, held by permanent occupants, should be vested in them. But as the zemindars and talookdars also claim consideration; as their acknowledged

ledged rights would be infringed by conferring such privilege on the ryuts; and as this infringement does not seem essentially necessary for the ease and security of the latter; the privilege in question should not, I think, be given to the ryuts by the authority of Government; but allowed to be at any time voluntarily given, or sold, by the zemindars themselves."

Whether the Ryuts should hold permanent possession of their tenures at a fixed rent.

2dly. "Should the permanent ryuts hold possession of the lands rented to them, on condition of paying a fixed rent? To answer this question satisfactorily, I shall consider distinctly the reasons for and against the measure, with regard to the ryuts, the zemindars, and Government respectively. Would it be beneficial to the ryuts."

How far beneficial to the ryuts.

"THEY would be secured from an increase of payment according to their improvements; which would probably stimulate them to improve the cultivation of their lands; and in that case, it may be presumed, the surplus produce, above the fixed rent, would yield them an easy livelihood, as well as enable them to lay by a provision against casualties. On the other hand, they would be subject to greater rigor from the zemindars in the adjustment of their rents, in the first instance, as well as in the subsequent payment of the amount adjusted, under whatever accidents might occur to create inability. The zemindars would be anxious to obtain as high a rent as possible, if aware that it could never be raised thereafter; and I fear it would be impossible to lay down a rule just to both parties. The zemindars, it may be said, are interested in satisfying the ryuts, because the lands, if uncultivated, are unproductive to them: but, it may be answered, the ryuts are also interested in satisfying the zemindars; because, if they cannot obtain lands to cultivate, they must starve. Both causes probably would operate; but, as the zemindars could more safely risk delay than the ryuts, it is to be feared, the latter would in general be obliged to accede; and, if so, it becomes a question whether it would not be better to let the zemindars make a limited settlement with the ryuts, on the moderate terms, which,

it is probable, they would then be satisfied with; than to require a perpetual settlement, on the immoderate terms, which, it seems probable, they would then require."

Advantage and disadvantage of a fixed rent to the zemindars.

"WOULD it be beneficial to the zemindars to fix the rent of the ryuts in perpetuity? The ease of the ryuts to be expected, if their rent be not too high, would enable them to pay with more punctuality. The certainty of the payment would induce the ryuts to give a higher rent, than they would under a fluctuating demand. The ease of the cultivators of the soil would increase the demand for land; and consequently encourage the greater cultivation of the zemindar's waste lands. The ability of the ryuts to provide against contingencies would lessen the losses to population, hitherto felt from famine; and consequently augment the number of cultivators for the waste lands. On the other hand, the fixed rent would prevent the zemindars from reaping any advantage from the improvement of the ryuts; or from a rise in the value of any particular articles of produce; and should the rent be fixed too high, in any instance, the stated benefits would not be derived."

Consequence of a fixed assessment of the ryuts with respect to Government, and the general improvement of the country.

"LASTLY. Would the fixed assessment of the ryuts be beneficial to Government? The demand being fixed, the ryuts would be stimulated by self-interest to improve the cultivation to the utmost; and the general improvement of the cultivation would increase the resources of the country. The ryuts, secured from exaction, might lay by the surplus produce of their labours for future contingencies; which would mitigate the dreadful effects of famine; and thereby preserve the population of the country. The ease of the ryuts would, by enabling the zemindars to collect their rents with punctuality, assist the more punctual payment of their revenues to Government. The opposite arguments are—The natives of this country are by many supposed so much inclined to indolence, as to be induced to labour from absolute necessity only: and, if this supposition have any foundation, the operation of the principle, in whatever degree, would so far tend to counteract the

extension

extension of cultivation; as, by fixing the rent, such necessity would be diminished. That the operation of this principle would also tend to prevent a provision for futurity. That the impossibility of equalizing the assessment, according to the improved state of the lands, would render the rents of some, in course of time, considerably heavier than those of others, and thereby prevent equality; and finally, that a prohibition to the zemindars and talookdars to raise the rents of the ryuts, would necessarily forbid any increase of the land assessment on the zemindars and talookdars, excepting such as could be derived from new cultivation."*

Concluding opinion, offered as the result of the preceding argument.

"On the whole, considering the Act of Parliament ordaining a general preservation of rights, the orders of the Court of Directors for a settlement of ten years; and the foregoing arguments, for and against the ryuts, zemindars, and Government respectively, I am of opinion, no perpetual right of possession, on condition of paying a fixed rent, should, at present, be conferred on those ryuts, who have not already a declared or prescriptive title to such. In order, however, to obtain, as far as possible, the advantages of a fixed assessment of the ryuts, and at the same time, to obviate the objections enumerated, it appears expedient to require the zemindars and talookdars to adjust, within the three first years of the ensuing decennial settlement, a rent to be paid by their ryuts individually, which shall continue unalterable during the remaining seven years. The concurrence of the zemindars and talookdars might be obtained, by making their agreement thereto the condition of their own revenue continuing invariable during the same period: and this could afford a fair experiment of the effects to be expected from a fixed demand on the ryuts; which would serve to assist a future decision on the important question, whether the land revenue of these provinces should be altered periodically, or fixed at once in perpetuity."

* When this remark was written, the land assessment had not been fixed in perpetuity.

SECTION III.

REGULATIONS OF THE BRITISH GOVERNMENT.

What provisions meant to be included in this section.

IN this section it is proposed to include such provisions in the existing regulations, as have immediate reference to the rents demandable by the landholders from their under-tenants; and have not been already stated in the former parts of this Analysis. The sub-divisions which have been adopted, as most convenient, are—

Sub divisions.

1. Adjustment of rents; and leases. 2. Receipt and enforcement of rents. 3. Special provisions for European tenants. 4. Provisions for tenures of invalid soldiers.

1. Adjustment of rents, and leases.

1. *Adjustment of Rents; and Leases.*

Rules enacted for Bengal, Behar, and Orissa.

THE rules upon this subject being adapted to local circumstances, and consequently varying for the different provinces, it is necessary to distinguish them; and I shall, in the first instance, state those which have been enacted for the provinces of Bengal, Behar, and Orissa; premising, that such of them as were passed before the conquest of Cuttack, in October 1803, had not, of course, any original relation to that district; though, with certain exceptions which will be specified, they have been generally extended to it by Regulation 12, 1805.

Extended to Cuttack, with exceptions, by Regulation 12, 1805.

Regulation 8, 1793. Rules concerning dependent talookdars.

THE following rules were established by Sections 48, 49, 50, and 51, of Regulation 8, 1793, for maintaining the rights of dependent talookdars, who were not entitled, under Section 5, of that regulation,* to be separated from, and rendered independent of, the zemindars and chowdries, to whom they had heretofore paid their rents.

Section 48. Settlement to be made by proprietors with the talookdars continued under them, and in what manner.

§. 48. "The settlement having been concluded with the zemindars, independent talookdars, and other actual proprietors of land, they are to enter into engagements with the several dependent talookdars, continued under them respectively, and consequently paying revenue through them, for the same period as the term of their own engagements with Government; pro-

* See vol. 2, page 212.

vided

vided the talookdars will agree to such revenue, progressive or otherwise, as the zemindar, or other actual proprietor of land, may be entitled to demand from them; and the several zemindars, or actual proprietors of land, to whom this rule may be applicable, are required to deliver to the collector, within three months after the conclusion of the settlement with them, a record of the engagements entered into between them, and the talookdars dependent on them, specifying their names and talooks, and the jumma payable by each."* §. 49. "It is to be understood, however, that istimrardars, (tenants at a fixed rent) of the nature of those described in Section 19,† who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government, or by the zemindar or other actual proprietor of land, should be engage for his own lands. With regard to such istimrardars also, as have not held their lands at a fixed rent for so long a period, if the zemindar, or other actual proprietor of land, has bound himself, by the deed which he may have executed, not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for

Section 49. Restrictions regarding the assessment of istimrardars, or tenants at a fixed rent.

* The record here mentioned is directed, in the 8th Clause of Section 15, Regulation 7, 1799, to be delivered "annually, or whenever it may be required;" including any alterations which have been registered, under the following further provision in the same clause:—"As a security to the zemindars in maintaining their rights over the dependent talookdars continued under them, the latter are required to register in the sudder cutcherry of the zemindary, to which their talooks may be attached, all transfers of such talooks, or portions of them, by sale, gift, or otherwise; as well as all successions thereto, and divisions among heirs, in cases of inheritance: and whenever any distribution of the jumma of a dependent talook may become necessary on a division thereof, the written consent of the zemindar, to whom such rent may be payable, is to be previously obtained; without which no distribution of a talookdary jumma will be valid, or exonerate the entire talook from its responsibility to the zemindar."

† Section 18, was inadvertently specified in the rule cited; but it had evident reference to Section 19, Regulation 8, 1793; which was as follows:—"Istimrardars, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, as the mocurreryda's mentioned in Section 18, are supposed to have done, but hold them of the proprietors on pottah, or lease, are to be considered as a species of pottah talookdars, and the settlement is to be made with them as hereafter specified." *Vide* Section 18, Regulation 8, 1793, here referred to, in vol. 2, page 211.

his own benefit; but must confine his demands to the rent he may have voluntarily agreed to receive." §. 50. "This last restriction imposed on the zemindar, or other actual proprietor of land, in Section 49, is not to be considered to preclude the officer of Government, or farmer, in the event of the zemindary being held khas, or let in farm, from assessing such istimrardars, according to the general rate of the district."* §. 51. "The following rules are prescribed to prevent undue exactions from the dependent talookdars. *First.* No zemindar, or other actual proprietor of land, shall demand an increase from the talookdars dependent on him, although he should himself be subject to the payment of an increase of jumma to Government; except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the talookdar holds his tenure; or that the talookdar, by receiving abatements from his jumma, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it. *Second.* If in any instance it be proved, that a zemindar or other actual proprietor of land exacts more from a talookdar than he has a right to, the court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit to the party injured."

Section 50. The last restriction, on proprietors of land, not to extend to public officers, or farmers, when the zemindary may be held khas, or let in farm, by Government.

Section 51. Further rules to prevent undue exactions from the talookdars.

THE same regulation, viz. 8, 1793, contains the following provisions, (since qualified in part, as stated in the sequel) respecting under-farmers, ryots, and other under-tenants. §. 52. "The zemindar, or other actual proprietor of land, is to let the remaining lands of his zemindary, or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual

Provisions in Regulation 8, 1793, respecting under-farmers, ryots, and other under-tenants.

Section 52. Actual proprietors to let their remaining lands under the prescribed restrictions, in whatever manner they may think proper.

* The *farmer*, referred to in this section, is not an under-farmer, holding a lease from the zemindar, and consequently not possessing any rights beyond those of his lessor; but a sudder farmer, or lessee of Government, who is entitled to receive the public dues, when they are let in farm.

proprietor

proprietor of land, or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount." The restrictions prescribed, and referred to in this section, are the following. §. 53. "No person contracting with a zemindar, independent talookdar, or other actual proprietor, or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections, without an amilnamah, or written commission, signed by such zemindar, independent talookdar, or other actual proprietor."* §. 54. "The impositions upon the ryots, under the denomination of *Abwab*, *Mhatoot*, and other appellations, from their number and uncertainty, having become intricate to adjust; and a source of oppression to the ryots; all proprietors of land, and dependent talookdars, shall revise the same, in concert with the ryots, and consolidate the whole with the assul, into one specific sum. In large zemindaries, or estates, the proprietors are to commence this simplification of the rents of their ryots, in the pergunnahs where the impositions are most numerous; and to proceed in it gradually, till completed, but so that it be effected for the whole of their lands by the end of the Bengal year 1198, in the Bengal districts; and of the Fussily and Willaity year 1198, in the Behar and Orissa districts; these being the periods fixed for the delivery of pottahs as hereafter specified." §. 55. "No actual proprietor of land, or dependent talookdar, or farmer of land, of whatever description, shall impose any new abwab, or mhatoot, upon the ryots, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to

Section 53. Restrictions alluded to in section 52.

Section 54. Process to be observed to prevent impositions upon the ryots under the denomination of Abwab, Mhatoot, &c.

Section 55. Actual proprietors and farmers of land prohibited from imposing any new abwab, or mhatoot, on the ryots, and penalty in case of disobedience.

* The following extract of a letter from the sub-secretary to Government, dated 5th January 1798, has reference to the agents appointed by the landholders, as required. "The Vice President in Council observes, that Government, in prescribing certain penalties for exactions by the landholders, had it not in contemplation to limit the operation of the regulation to cases in which the exactions may have been made by the landholders personally; as in that event the penalties might, in every instance, be evaded by them. He is of opinion, that the landholders are responsible for all acts of this nature done in their name by any of their agents, who may have been regularly constituted such, agreeably to Section 53, Regulation 8, 1793."

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three times the amount imposed; and if, at any future period, it be discovered, that new abwab or mhatoot have been imposed, the person imposing the same shall be liable to this penalty, for the entire period of such impositions." §. 56. It is expected, that in time, the proprietors of land, dependent talookdars, and farmers of land, and the ryots, will find it for their mutual advantage to enter into agreements, in every instance, for a specific sum, for a certain quantity of land; leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit: where however it is the established custom to vary the pottah for lands, according to the articles produced thereon, and while the actual proprietors of land, dependent talookdars, or farmers of land, and ryots, in such places, shall prefer an adherence to this custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease; and a stipulation, that in the event of the species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on; and in the event of any new species being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly."

Section 56. Variations of pottah according to articles of produce admitted under certain restrictions.

§. 57. "*First.* The rents to be paid by the ryots, by whatever rule or custom they may be regulated, shall be specifically stated in the pottah; which, in every possible case, shall contain the exact sum to be paid by them. *Second.* In cases, where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, or on a survey of the crop; or where they are made payable in kind; the rate and terms of payment, and proportion of the crop to be delivered, with every condition, shall be clearly specified."

Section 57. What the pottahs to be delivered to the ryots are to contain.

§. 58. "Every zemindar, independent talookdar, or other actual proprietor of land, and every dependent talookdar, shall prepare the form of a pottah or pottahs, conformably to the rules above prescribed, and adapted to the circumstances of his estate, or talook; and, after obtaining

Section 58. Forms of pottahs to be registered in the zillah court, and copies to be deposited in each of the principal cutcheries.

obtaining the collector's approbation of it, (which approbation shall be signified by such officer subscribing the form with his name and official appellation) he is to register a copy of the form, or forms, in the Dewanny Adawlut of the zillah; and to deposit a copy in each of the principal cutcherries in his estate or talook. Every ryot shall be entitled to receive corresponding pottahs on application; and no pottahs of any other form shall be hereafter held valid."* §. 59. "A ryot, when his rent has been ascertained and settled, may demand a pottah from the actual proprietor of land, dependent talookdar or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the pottahs, upon being proved in the Court of Dewanny Adawlut of the zillah, shall be punished by the court, by a fine proportioned to the expense and trouble of the ryot in consequence of such refusal. Actual proprietors of land, dependent talookdars, and farmers, are also required to cause a pottah for the adjusted rent to be prepared and tendered to the ryot; either granting the same themselves, or intrusting their agents to grant the same. No farmer however, without special permission from the proprietor of the lands, or (if the lands form part of a dependent talook, the dependent talookdar,) shall grant a pottah extending beyond the period of his own lease; nor shall any agent grant a pottah without authority from the proprietor, or dependent talookdar, or the manager of disqualified proprietors."† §. 60. *First.* "All leases to

Section 59. Ryots may demand pottahs of actual proprietors of lands, and farmers; who are also required to grant them. Penalty in case of refusal.

Restrictions on farmers and agents in granting pottahs.

Section 60. All existing

* By Section 6, Regulation 4, 1794, it was explained that "the approbation of the collector, required to be obtained to pottahs by Section 58, Regulation 8, 1793, is to be considered to extend to the form only. If a dispute shall arise between the ryots, and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs, (whether the rent be payable in money, or kind,) it shall be determined in the Dewanny Adawlut of the zillah in which the lands may be situated, according to the rates established in the pergunnah, for lands of the same description and quality, as those respecting which the dispute may arise." The requisition to the landholders to prepare forms of pottahs, for the approbation of the collector, and the latter's approval of such forms, have been since superseded by the provisions of Regulation 5, 1812, hereafter stated.

† The following addition to this rule was made by Section 5, Regulation 4, 1794; but it is now superseded by the provisions of Regulation 5, 1812. "The ryots in the different parts of the country frequently omitting or refusing to take out or

Leases to under farmers and ryots to remain in force until the period of their expiration. Exception to the rule.

No actual proprietor of land, or dependent talookdar, or farmer of land, shall cancel the pottahs of khoodkaust ryots except in certain specified cases.

to under-farmers and ryots, made previous to the conclusion of the settlement, and not contrary to any regulation, are to remain in force until the period of their expiration, unless proved to have been obtained by collusion, or from persons not authorised to grant them."* *Second.* "No actual proprietor of land or farmer, or persons acting under their authority, shall cancel the pottahs of the khoodkaust ryots, except upon proof that they have been obtained by collusion; or that the rents paid by them, within the last three years, have been reduced below the rate of the nirkbundy of the pergunnah; or that they have obtained collusive deductions; or upon a general measurement of the pergunnah for the purpose

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or receive pottahs, although the persons, from whom they are entitled to demand them, are ready to grant them, in the form, and on the terms, prescribed by the regulations, it is declared, that if a proprietor or farmer of land, or a dependent talookdar, after the approbation of the collector to the form of the pottah, or pottahs, for the lands in his estate, or farm, shall have been obtained, as prescribed in Section 58, Regulation 8, 1793, shall fix up in the principal cutcherry, or cutcherries, of his estate, or farm, a notification in writing, under his seal and signature, specifying that pottahs according to the form approved, and at the established rates, will be immediately granted to all ryots who may apply for them, and stating where and when and by whom the pottahs will be delivered, the notification shall be considered as a legal tender of a pottah; and the proprietor of land, the farmer, or the dependent talookdar, shall be deemed to have complied with the orders in Section 59, Regulation 8, 1793; and the persons so tendering pottahs shall be entitled to recover the rents due to them from such ryots, either by the process of distraint, laid down in Regulation 17, 1795, or by suit in the Dewanny Adawlut."

* In answer to a reference from the Judge of zillah Chittagong, the Court of Sudder Dewanny Adawlut, on the 27th July 1797, expressed their opinion, founded upon this clause, and the next section of Regulation 8, 1793, that all pottahs granted by persons duly authorized, before the expiration of the Bengal year 1198, and not contrary to any regulation in force at the time, must be held good against the lessors, and their representatives. Also, that the sense of ambiguous pottahs should be ascertained by the best evidence to be obtained of local usage. This opinion however, during the operation of Section 2, Regulation 44, 1793, hereafter specified, must be understood in consistency with the provisions of that regulation; which, with certain exceptions, restrict leases, and other engagements for the rent of lands, to a period of ten years. The court's meaning appears to have been, that the penalty of non-recovery, prescribed by Section 61, Regulation 8, 1793, should not be applied retrospectively, to legal engagements for rent, executed before the period fixed by that section, and still in force, for an unexpired term, or in perpetuity. On the 9th August 1798, the Court of Sudder Dewanny Adawlut, in answer to a further reference from the Judge of Chittagong, informed him, that the rules concerning pottahs, in Regulation 8, 1793, being general, they were considered to extend to the ryots of lakheraj lands, as well as to those of malgoozary lands.

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of equalizing and correcting the assessment. The rule contained in this clause is not to be considered applicable to Behar." §. 61. "The proprietors of estates, and the dependent talookdars, and farmers of land in Bengal, are allowed until the end of the Bengal year 1198, and those in Behar and Orissa until the end of the Fussily and Willaity year 1198, to prepare and deliver pottahs to the ryots, in conformity to the preceding rules; but after the expiration of the year 1198, no engagements for rent, contrary to those ordered, are to be held valid; and in the event of any claims being preferred by proprietors of estates, or dependent talookdars, farmers, or ryots, on engagements, wherein the consolidation of the assul, abwab, &c. shall appear not to have been made, they are to be nonsuited with costs."* §. 64. "The proprietors of land, dependent talookdars, and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under renters and ryots, according to the time of reaping and selling the produce; and they shall be liable to be sued for damages for not conforming to this rule." §. 65. "No proprietor of land, or dependent talookdar, shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this regulation."

Section 61. Time allowed to proprietors of land, and dependent talookdars and farmers of land, to prepare and deliver pottahs to the ryots.

Claims on engagements contrary to those ordered how to be considered and decided on.

Section 64. Instalments of rents to be adjusted according to time of reaping and selling the land produce.

Section 65. Landholders restricted from entering into engagements contrary to this regulation.

The provisions respecting leases, in Regulation 8, 1793, particularly that contained in the first clause of Section 60, whereby "all leases to under-farmers and ryots, made previous to the conclusion of the settlement, and not contrary to any Regulation," were confirmed, "to remain in force until the period of their ex-

What parts of Regulation 8, 1793, were qualified by Regulation 44, 1793, passed on the same date.

* The period specified in this section was extended to the 1st Aughun 1201 B. in zillah Boglepore, by Regulation 2, 1794; to the end of the Bengal year 1200 in zillah Purnea, by Regulation 4, 1794; and by the same regulation till the expiration of 1201, in the zemindary of Nuddea. The whole of the provisions respecting pottahs, in Sections 54, 56, 57, 58, 59, and 61, of Regulation 8, 1793, were also, by Section 2, Regulation 4, 1794, declared inapplicable to such part of zillah Ramghur, as is situate in the province of Behar, "the body of the ryots in that part of the country being unable to read, or write, and being accustomed to cultivate the lands under verbal agreements, and terms entirely dissimular to those, which prevail in other parts of the provinces." These provisions are also materially altered in the whole of the provinces, by Section 3, Regulation 5, 1812, hereafter stated.

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piration, unless proved to have been obtained by collusion, or from persons not authorized to grant them," received a material qualification in another regulation of the same date, though bearing a subsequent number, viz. Regulation 44, 1793, "for prohibiting the fixing the jumma of dependent talooks, or granting leases or pottahs, for a term exceeding ten years;" besides providing, in cases of public sales of land for the discharge of arrears of revenue, "for rendering null and void all engagements (with certain exceptions) subsisting between the defaulting proprietor, and his dependent talookdars, under-farmers, and ryots;" as already stated, with the rules for such sales, under the head of *collection of the land revenue.** By Section 2, of this regulation, it was enacted that "No zemindars, independent talookdars, or other actual proprietors of land, nor any persons on their behalf, shall dispose of a dependent talook to be held at the same or at any jumma, or fix at any amount the jumma of an existing dependent talook, for a term exceeding ten years; nor let any lands in farm, nor grant pottahs to ryots or other persons for the cultivation of lands, for a term exceeding ten years. Nor shall it be lawful for any zemindar, independent talookdar, or other actual proprietor of land, who may have entered into an engagement with any dependent talookdar, fixing the jumma of his talook for a term not exceeding ten years, or let any lands in farm, or granted pottahs for the cultivation of lands, for a term not exceeding ten years, to renew such engagement, lease, or pottah, at any period before the expiration of it, excepting in the last year; at any time during which it shall be lawful for the parties to renew such engagement, lease, or pottah, upon the same or any other terms, for a period not exceeding ten years, calculating from the expiration of the year in which such renewal may take place. All evasions of the prohibitions contained in this section, by entering into two separate engagements, leases, or pottahs, at the same time, dating an engagement, lease, or pottah, subsequent to the period at which it may have been actually executed or by any other device, shall be considered as an

Section 2. Jumma of dependent talooks not to be fixed, nor farms or pottahs granted, for a term exceeding ten years.

Engagements for ten years or less not renewable at any period during the term of them except in the last year.

All evasions of this rule to be considered infringements of it.

* Vol. II, page 412.

infringement

infringement of them; and every engagement fixing the jumma of a dependent talookdar, and every lease or pottah which has been or may be concluded or granted in opposition to such prohibitions, is declared null and void."* It was, at the same time, declared in Sections 6, 7, and 8, of Regulation 44, 1793, that "nothing con-

All engagements, leases and pottahs, granted in opposition to this section, declared void.

Limitation of above rule.

* On the 23d March 1798, the court of Sudder Dewanny Adawlut had before them a reference from the judge of zillah Jessore, upon the construction of this section, in the case of a bill of sale for a dependent talook, stipulating in the same deed for a fixed jumma, or rent, in opposition to Section 2, Regulation 44, 1793. The judge observed, that "the purchasers of talooks in such cases having paid a fair price for the talook, seem to have no doubt that the purchase itself is fully sanctioned by the sixth Section of Regulation 44, 1793; although they cannot dispute the jumma being subject to all the restrictions which Government have chosen to establish;" that he also concurred in thinking the agreement for a fixed rent only invalid under the above regulation, without affecting the sale; but that he wished to have the sentiments of the superior court for his guidance. The answer of the Sudder Dewanny Adawlut was in the following terms:—"The court, on reference to Regulation 44, 1793, and considering the meaning and intention of that regulation, as expressed in the preamble, are of opinion, that in the case stated by the zillah judge, viz. when the bill of sale for a dependent talook contains an engagement for the jumma of it in opposition to Section 2, of the above regulation, such engagement, respecting the jumma only, is meant to be declared null and void by the above section, without affecting the right of property between the parties." This construction had been anticipated by a similar declaration from the Vice President in Council, in the following extract from a letter to the Board of Revenue, dated 15th December 1797. "The 44th Regulation, of 1793, does not, in our opinion, admit of the unqualified construction which you appear to have given it. The section quoted by you determines, that in the event of lands being disposed of for the recovery of arrears of revenue, all existing engagements between the proprietor and his dependent talookdars shall stand cancelled, as far as regards the amount of the rent; but it by no means determines, that the talookdarry tenure shall be forfeited and be considered null and void. The right of occupancy is still reserved to the talookdar, on his continuing to pay such rents as the purchaser may be entitled to demand, according to the established usages, or rates, of the district, or purgunnah, in which the lands may be situated. Section 6, of the same regulation, and Section 10, Regulation 1, 1793, also recognized a right in every independent proprietor to dispose of a part of his lands as a dependent talook, and consequently, whether the sale or grant may have been made at a period anterior or subsequent to the decennial settlement, or to the date of the regulations in question, the proprietor was equally competent to make such grant; nor will the tenure of the talookdar be otherwise affected by the operation of the regulation, except that any engagements, which he may have entered into for the payment of a fixed rent, will stand cancelled from the day of sale." See also, on the subject of this note, Cause 28, 1806, in *Reports of Civil Causes*, adjudged by the court of Sudder Dewanny Adawlut; and an illustration of the principles on which the whole of these determinations appear to have been founded, in the first volume of BLACKSTONE's commentaries, page 87, respecting *the points to be considered in the construction of all remedial statutes; the old law, the mischief, and the remedy.*

Section 6. This regulation not meant to prohibit proprietors from disposing of dependent talooks.

Section 7. Nor to affect the jumma of the talookdars, whose jumma is declared unalterable by Section 51, Regulation 8, 1793.

Section 8. Nor to prohibit grants or leases for any term, for the purposes herein specified; except to British subjects and other Europeans.

Regulation 7, 1799, Section 29, Clause 5. Explanation of above section.

Not meant to affect tenures of istimrardars, who, by Sections 19, and 49, of Regulation 8, 1793, were exempted from any increase of their fixed rent, at the formation of the decennial settlement.

Such under-tenants included in Section 7, of Regulation 44, 1793.

tained in this regulation shall be construed to prohibit any zemindar, independent talookdar, or other actual proprietor of land, selling, giving, or otherwise disposing of any part of his lands as a dependent talook. Nor to authorise the assessment of any increase upon the lands of such dependent talookdars, as were exempted from any increase of assessment, at the forming of the decennial settlement, in virtue of the prohibition contained in Clause First, Section 51, Regulation 8, 1793. The revenue payable by such dependent talookdars is declared fixed for ever, and their lands are accordingly to be rated at such fixed assessment in all divisions of the estate, in which their talooks are included. Nor to prohibit actual proprietors of land granting, without the sanction of Government or its officers, to any person, not being a British subject or a European, a lease or pottah for ground, for any term of years, or in perpetuity, for the erection of dwelling houses, or buildings, for carrying on manufactures or other purposes, and for offices for such houses or buildings; or for gardens."* It was further declared in the Fifth Clause of Section 29, Regulation 7, 1799, in explanation of Regulation 44, 1793, "that it was not meant to annul the leases, or in any wise affect the tenures, of the istimrardars, (tenants at a fixed rent) described in Section 19, of Regulation 8, 1793, who, by Section 49, of that regulation, were exempted from any increase of their fixed jumma at the formation of the decennial settlement, provided they had held their tenures at a fixed rent for more than twelve years antecedent to that period. On the contrary, such under-tenants (being declared in Section 19, of Regulation 8, 1793, a species of pottah talookdars) were meant to be included in Section 7, of Regulation 44, 1793, which exempts from any increase of rent, under that regulation, the lands of dependent talookdars, who were exempted from any increase of assessment at the formation of the decennial settlement; and declares the revenue payable by such talookdars fixed for ever."

* In Section 8, Regulation 44, 1793, the clause *or for gardens* was erroneously inserted after the word *manufactures*. It was re-enacted as above cited, in Section 7, Regulation 50, 1795.

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Reasons stated in preamble to Regulation 44, 1793, for provisions in that regulation.

THE following reasons were assigned, in the preamble to Regulation 44, 1793, for the provisions which have been cited from Section 2, of that Regulation. "The public demand upon the estates of the proprietors of land, with whom a settlement has been or may be concluded, under the original regulations for the decennial settlement, having been declared fixed for ever, it is to be apprehended, that many proprietors, either from improvidence, ignorance, or with a view to raise money, or from other causes or motives, may be induced to dispose of dependent talooks, to be held at a reduced jumma; or fix the jumma of such dependent talooks as now exist in their respective estates, at an under-rate; or let lands in farm, or grant pottahs for the cultivation of land, at a reduced rent, for a long term, or in perpetuity. Such engagements, if held valid, would leave it in the power of weak, improvident, or ill-disposed proprietors, to render their property of little or no value to their heirs; promote vice and injustice; occasion a permanent diminution of the resources of Government, arising from the lands, in the event of the rent or revenue, reserved by such proprietors, being insufficient for the discharge of the amount of the public demand upon their estates; be an abuse of the great and lasting benefit, which has been conferred upon the landholders, by the possession of their lands being secured to them in perpetuity at a fixed assessment; and moreover be repugnant to the ancient and established usages of the country; according to which, the dues of Government from the lands, (which consist of a certain proportion of the annual produce of every begah of land, demandable according to the local custom in money or kind, unless Government has transferred its right to such proportion to individuals for a term, or in perpetuity, or fixed the public demand upon the whole estate of a proprietor of land, leaving him to appropriate to his own use the difference between the value of such proportion of the produce, and the sum payable to the public, so long as he continues to discharge the latter,) are unalienable without its express sanction. It is at the same time essential, that proprietors of lands should have a discretionary power to fix the revenue payable by their dependent talook-

dars,

dars, and to grant leases, or fix the rents of their lands, for a term sufficient to induce their dependent talookdars, under-farmers, and ryots, to extend and improve the cultivation of their lands; and that such engagements should be held inviolable in all cases, except where they may interfere with, or affect in any shape, the primary and indefeasable rights of Government.* Upon the above grounds; and as the proprietors of land, previous to the decennial settlement being declared perpetual, were not entitled to enter into any engagements with their dependent talookdars, under-farmers, and ryots, for a period extending beyond the term of their own engagements with the public; the Governor General in Council has enacted as follows," viz. the rule contained in Section 2, Regulation 44, 1793, already quoted.

Rules established in 1793, regarding the grant of pottahs, revised in 1812,

But after an experience of nearly twenty years, it was deemed advisable (as stated in the preamble to Regulation 5, 1812) "to revise the rules established, regarding the grant of pottahs by the proprietors of land paying revenue to Government, to their tenants;" and the following provisions were enacted, in consequence, by Sections 2, and 3, of that Regulation; with an explanation of the former in Section 2, Regulation 18, 1812.† §. 2. *First.* "Section 2, Regulation 44, 1793, by which the proprietors of land, paying revenue to Government, are precluded from granting leases for a period exceeding ten years, is hereby rescinded; and proprietors of land are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants, and most conducive to the improvement of their estates."

And new rules enacted by Regulation 5, 1812.

Reg. 5, 1812, Section 2. Restriction against leases for more than ten years, contained in Section 2, Regulation 44, 1793, rescinded.

Reg. 18, 1812, Section 2. Explanatory rule declaring

Second. Doubts having arisen on the construction of the above rule, it was explained by Section 2, Regulation 18, 1812, "That the

* This refers to the provision for annulling leases in cases of public sales for arrears of revenue; and confirming them in all other cases of public, or private transfer, provided they were not repugnant to the rule prescribed in Section 2; as before noticed, under the heads of "*Collection of the Land Revenue*," and "*Division and Union of Estates*;" vol. II, page 414, and note to page 456.

† I cannot better explain the grounds upon which the important provisions, contained in the regulations here referred to, were founded, than by subjoining the following extract from the minute of the Member of Government, who suggested them.

Mr.

the true intent of it was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent, which

competency of proprietors of land, to grant leases for any period, or in perpetuity.

Mr. H. Colebrooke, in a minute recorded by him on the 1st May 1812, after noticing generally, that "the rules devised for the safety of the public revenue had introduced a needless insecurity in the engagements and tenures of the zemindars and rayats; and imposed more than requisite restraints on the exercise of their discretion in forming mutual engagements, and by consequence, on the free enjoyment of property, as well as on agricultural improvement;" added the following specific observations, relative to Sections 2, and 5, Regulation 44, 1793. "By the regulation quoted, it is provided, that no lease shall be made for more than ten years, nor leases be renewed except in the last year of their term; and every lease granted in opposition to that prohibition, is declared null and void. And by another section of the same regulation, it is further provided, that whenever lands are sold by public sale for arrears of the public assessment, all leases to under-farmers and rayats, and all engagements with dependent talookdars, shall stand cancelled from the day of sale; and the purchaser may collect from the talookdars, rayats or cultivators, according to the rates and usages of the pergunnah, as if the engagement so cancelled had never existed. The operation of this rule was extended by a subsequent regulation (Section 3, Regulation 3, 1796,) to the entire annulment of leases, for lands of which a part only might be sold for the recovery of arrears of revenue; and was, on the other hand, modified in cases of sales taking place after the second month of the year, so that leases, unless collusive, should remain, in such cases, uncancelled until the close of the year. These rules were enacted professedly to guard against the improvidence, as well as dishonesty, of landholders. The preamble to the regulation recites the injury to which their heirs might be exposed by these imprudent engagements. But the evil, against which the regulation was especially intended to provide, was the permanent diminution of the resources of Government; which would be the consequence of the landholders reserving a rent insufficient for the discharge of the public revenue. It was apprehended, that landholders, if vested with an unlimited discretion of fixing the amount of rent, and the term of the lease, would abuse that power; and would either grant improvident leases at very reduced rates, for a perpetual, or at best a long, term, with the view of obtaining an immediate supply of funds; or might grant such leases collusively, for the purpose of creating beneficial estates for themselves under borrowed names, or for relations, favorites and dependents. It is to be observed, that no provision is made against the dishonesty of landholders, practising such devices, with a view to defraud their creditors; their leases and engagements being unaffected by a sale, made even under the authority of courts of justice, for the recovery of private debts due to individuals. As this which, no doubt, is a much more favourable case than that of heirs, did not engage the attention of the legislator, it is fair to infer, notwithstanding the tenor of the preamble, that the security of the public dues was chiefly, not to say exclusively, considered: and indeed there appears no substantial reason for any special care of the interests of heirs in this instance; or for controlling the discretion of proprietors, and guarding against their improvident disposal of their property by lease, while every other avenue is open, by which the property may suffer detriment, and the heir's expectancy be defeated. For the security of the public revenue, two remedies are provided by the regulations in question, where one would have sufficed. 1st. The limitation of the landholder's discretion in regard to the

But persons holding a restricted interest in estates, or subject to con-

which they might deem conducive to their interests. Provided, however, that nothing contained in the former or present regulation;

the period of leases; and 2dly, the cancelling of all leases, whenever recourse has been had to public sale, even of a part of the lands, for arrears of revenue. Both remedies could not be necessary. If the second were so, as the regulation supposes, the first was superfluous. If the first were effectual for guarding the resources of the revenue, the second could not be indispensable; and, being a very rigorous rule, and a very discouraging one to agriculture, should not have been adopted, so long as no absolute necessity for it was found to exist. These observations lead naturally to the proposition, that one or other of those rules be abrogated, and that the other, which is retained, be modified and amended. I hesitated long, which to recommend should be rescinded, and which retained. Wholesome rules might, no doubt, be framed, on the model perhaps of the restrictions of English law, respecting church leases, and leases by tenants in tail, (or on some other principle derived from the experience of other nations,) by which the landholders might be restrained from making away with the resources of the revenue of the lands. Many considerations would seem to recommend this, as the least harsh expedient. But to adopt it to the various cases which can be foreseen, and make it efficient for the purpose for which it is designed, the rules to be adopted could not but be in some measure complex: and we have found, in too many instances, how ill suited intricate arrangements, and regulations, are to the manners and capacities of the people of this country, to enter willingly on a new career of complex legislation. On this ground chiefly, and after mature reflexion, I am induced to recommend the simple course of abrogating all restrictions upon leases in the first instance, and of preserving the rule which cancels pottahs in case of a sale for the recovery of arrears of revenue; with this modification, however, that it shall not take effect, unless fraud be proved, until the close of the year, in which the sale occurs; nor extend to lands not included in the sale. By this alteration of the existing rules, the landlord and tenant will be at full liberty to form any engagements that may be most for their mutual benefit, according to their own views of their respective interests. Leases for long terms of years, so requisite to the extension and improvement of agriculture, and so conducive to the welfare of both landlord and tenant, will be no longer prohibited; nor be discouraged by any circumstance, but the contingency of the pottah being cancelled by a sale of the lands for the public revenue due from the landholder. This, I apprehend, must be retained for the security of the revenue of Government. It is a rule countenanced by the laws of several Europeans nations, in which a change of property annuls unexpired leases. Its effect, in discouraging the employment of capital in agriculture, is to be lamented; but is unavoidable, without incurring greater evil in pursuit of a different remedy."

"Another part of the subsisting revenue regulations, which appears to me to need emendation, is that which relates to the form of leases; and which annuls such engagements as may not be drawn in prescribed form. Before the enactment of the regulations connected with the permanent settlement of the land revenues of Bengal, a practice prevailed among landholders in this province, of imposing on their rayats arbitrary cesses termed *abwab*; being either authorized so to do by reservations in the pottahs, to subject the rayats to such abwab as might be imposed on the pergunnah generally, or else assuming that authority without the sanction of any such reservation in the leases of their tenants. To protect the peasantry from such arbitrary

on, shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it."

trol or restriction in the use, or disposal, of property, not empowered to grant leases beyond the term of their own interest, or exceeding their authority.

§. 3. "Such parts of Regulation 8, 1793, and of Regulation 4, 1794, as require that the proprietors of land shall prepare forms of pottahs, and that such forms shall be revised by the collectors, and which declare, that engagements for rent contracted in any other mode than that prescribed by the regulations in question,

Reg. 5, 1814. Section 3. Certain parts of Regulation 8, 1793, and Regulation 4, 1794, respecting forms of pottahs and engagements for rent, rescinded.

arbitrary exactions, which had been the source of grievous oppression and of gross abuses, the regulations of the permanent settlement provided, that no new abwab should be imposed on any pretence, under penalty of three times the amount; that the landholders, in concert with their tenants, should revise the abwab, and consolidate them with the land rents; that they should give, or tender to their rayats, pottahs prepared according to a form previously approved by the collector, and registered in the Adawlut. These rules are enforced by a provision, that pottahs of any other form are to be held invalid. Notwithstanding this penalty, which was expected to enforce universal compliance, by rendering the written engagements of landlord and tenant void, and of no effect, if there be a deviation from the prescribed form, there is reason to believe that little progress has been really made towards the general introduction of the simple and definite leases, which it was thus intended to enforce. But whether generally or partially successful, or wholly ineffectual, that penalty ought, I think, to be now rescinded. There is no longer any sufficient motive for holding the landholders and tenantry of the country in this sort of pupillage, prescribing to them the manner and form of their reciprocal engagements. They may be safely left to consult their mutual interests, by entering into such engagements, as they may consider to be for their benefit respectively; and to reduce their agreements to writing, in any form most intelligible and satisfactory to themselves, or in their conviction most binding and secure. All that need be required, is, that the engagements shall be definite; and it may be accordingly declared, that any clause of a lease, or other engagement, reserving the power of imposing cesses, or taxes, termed *abwab* or *muthote*, or under any other denomination whatsoever, or binding the pottah-holder to pay any impost or addition whatsoever, beyond the rent, however regulated, in money or in kind, which the pottah or engagement specifies, shall be void and of no effect; and the courts shall maintain the remaining definite clauses, and enforce payment of such rent, and such only, as is specifically stipulated and agreed for, by the pottah or other engagement. Under this alteration of the existing rules, the courts of justice will give effect to the agreements of the parties according to their ascertained intentions, with exception only to stipulations subjecting one of the parties to arbitrary demands at the will of the other. This exception, together with the prohibition actually in force against the imposition of any arbitrary cesses, or abwab, under whatever pretence, will entirely preclude the renewal of those oppressions and abuses, which the regulations, I have proposed to modify, were designed to prevent."

shall

And proprietors declared competent to grant leases, and receive engagements, in such forms as may be deemed most convenient and advantageous to the contracting parties.

This rule not meant to legalize stipulations for arbitrary or indefinite cesses, which are to be adjudged null and void; but without vitiating the definite clauses of the engagements.

shall be deemed to be invalid, are likewise hereby rescinded. And the proprietors of land shall henceforward be considered competent to grant leases to their dependent talookdars, under-farmers, and ryots, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient, and most conducive to their respective interests. Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of abwab, muthote, or any other denomination. All stipulations, or reservations, of that nature, shall be adjudged by the courts of judicature to be null and void: But the courts shall notwithstanding maintain, and give effect to, definite clauses of the engagements contracted between the parties, or in other words, enforce payment of such sums as may have been specifically agreed upon between them."*

The

* Further provisions, in Sections 4, 5, 6, 7, 8, 9, 10, and 11, of Regulation 5, 1812, were stated in the second volume of this Analysis, (page 414,) as being connected with attachments and public sales of land, on account of arrears of revenue. It may be useful however to add, in this place, the following further extract from the minute cited in the preceding note, as containing the reasons which suggested the amendments enacted in the above sections; and which were not adverted to, at the time of stating the provisions included in them. Section 5, Regulation 44, 1793, with corresponding sections in Regulations 50, 1795, and 47, 1803, for Benares, and the upper provinces, contained rules (which have been detailed in volume 2, page 412,) for annulling, in cases of public sales of land for arrears of revenue, engagements contracted between the former proprietor and his tenants, (with certain exceptions,) and empowering the purchaser to demand from the dependent talookdars, ryuts, and other under-tenants, whose pottahs might be thus cancelled, a rent conformable to the established usages and rates of the pergunnah. But in subsequent regulations, with a view to mitigate the hardship to which under-tenants were exposed by the operation of this rule, it was provided, that whenever the public sale might take place after the second month of the current Bengal, Fussily, or Willaity year, the rule, which authorized the purchaser to cancel existing leases, should not operate till the close of the year, provided "that this suspension be not considered applicable to any engagements, pottahs, or leases, evidently collusive." After noticing these rules, Mr. COLEBROOKE, (on the 1st May 1812,) recorded the following observations.

"Considering the proneness of the natives to abuse any power or authority with which they are invested, the latitude here given seems much too loose and too extensive. Either a judicial enquiry, summary at least, should take place before sequestrators,

THE rule last mentioned is extended by the general terms of Regulation 5, 1812, to Cuttack and its dependencies, in common with the rest of Orissa.

Rule last mentioned extended to Cuttack and its dependencies, by the preamble to Regulation 5, 1812.

BUT.

questrators, and still more purchasers, are allowed to levy from the growing crop a higher revenue than the cultivator or renter has engaged to pay; or a very clear and definite test should be provided, by which the suspicion of collusion may be tried. It should not be left to the discretion of an ameen, or of an interested purchaser, to say whether the leases of the cultivators of an estate are collusive. The regulation aims at no more than to do away such leases as may have been made in contemplation of the attachment, or sale, with the view of evading or defeating it. The date of possession, and the comparison of the rent to that of preceding years, would therefore furnish satisfactory grounds, on which to found a presumption. If the tenant were in possession during one or more anterior years, and the rent reserved be equal to the average rent of preceding years, no just suspicion can be admitted against the lease. But fraud and collusion may be presumed, if a reduction of rent have been conceded to a tenant in possession, or a lease have been granted to a new tenant for a less rent than has been most accustomarily paid, within the three last years. In cases where pottahs are set aside or cancelled under the rules above quoted, as well as in other similar instances, it is provided, that the rent or revenue to be demanded shall be determined by the rates and usages of the pergunnah or district; and the rayat is entitled to require a renewal of his pottah upon those terms. This would be very unexceptionable, if, as is here supposed by the regulations, the proportion of annual produce, in money or in kind, constituting the revenue demandable as the due of Government, could be with certainty determined; and if the rents, which the landlord may properly ask, according to the established rates and usages of the pergunnah, were accurately ascertainable. For the interests of the cultivator and tenant would be sufficiently protected and secured, if the established rules and rates of the pergunnah, according to which he is pronounced entitled to demand the renewal of the lease, and according to which the courts of justice are required to decide disputes arising between landlord and tenant, were either known or ascertainable. But there is reason to presume, that the pergunnah rates are become very uncertain. In several causes of magnitude, which were perseveringly contested by the parties, it appeared from proceedings, which came before the Sudder Dewanny Adawlut while I sat in that court, that in a district and province, in which dependent talookdars were particularly numerous, no rule of adjustment could be discovered, after the most patient inquiry, conducted by a very intelligent public officer. From the proceedings held in numerous other cases in the courts of justice, the same conclusion may be drawn, respecting the relative situation of the rayat and zemindar, in most districts. In some indeed a rule of adjustment may still be found, in full force, and actual operation. The regulations of Benares have maintained the table of rates of 1187 Fussily; and the canoongoe office yet exists in that province for its preservation. In the vicinity of Calcutta the rayats have been, I understand, supported by the decisions of adawluts, in their pretensions to hold their lands upon the rents payable by them, or by the persons whose representatives they are, according to the last general measurement, which was undertaken with the authority of Government, before the permanent settlement; and of which the record is understood to be preserved in the office of the collector of the 24-Pergunnahs. Other instances may exist;

But Sections 2, and 3, Regulation 14, 1812, substituted for

But the orders of the Court of Directors, disapproving the immediate conclusion of a permanent settlement in Cuttack, (as stated

ist, but they are few; and the position, as a general one, is unquestionably true, that there is actually no sufficient evidence of the rates and usages of purgunnahs, which can be now appealed to for the decision of questions between landholders and rayats. I apprehend that, when the regulations in question were framed, no very distinct notions were formed of the pergunnah rates and established usages, referred to. At least it is evident that several passages in the regulations, where reference is made to such rates and usages, were not exactly applicable to the state of things which then existed. Possibly it may have been owing to caution, suggested by feelings of doubt on that subject, that the regulations every where look to the courts of justice for the determination of all disputes between landlord and tenant, without providing definite rules for the court's guidance; while, on the other hand, the courts of justice have in general, and of late years especially, looked to the regulations alone for rules of decision, without entering into tedious, and possibly vain, researches into local usages. In this state of matters, it would be better to abrogate most of the laws in favor of the rayat; and leave him, from a certain period to be specified, under no other protection for his tenure than the specific terms of the lease which he may then hold; than to uphold the illusory expectation of protection under laws which are nearly ineffectual. The tenant might thus be rendered sensible of the necessity of obtaining a definite lease from the landlord; and would find it his interest to require such a lease as the condition of his persisting in the culture of the lands. The landholder would equally find it necessary to grant definite leases to induce the rayat to continue the cultivation of the ground. The parties would be thus compelled to come to an understanding; and this result would, on every consideration, be preferable to the present state of uncertainty, which naturally leads to oppression, fraud, and endless litigation. But if it be thought expedient, in place of abrogating the laws which were enacted for the protection of the tenantry, and especially of the khodkasht rayat, or resident cultivator, that the right of occupancy, which those laws were intended to uphold, should be still maintained; and that the rayat should be supported in his ancient and undoubted privilege of retaining the ground occupied by him, so long as he pays the rent justly demandable for it; measures should rather be adopted, late as it now is, to reduce to writing a clear declaration and distinct record of the usages and rates, according to which the rayats of each pergunnah, or district, will be entitled to demand the renewal of their pottahs, upon any occasion of general or partial cancelling of leases. I had it, at one time, under consideration, to propose a plan for the preparation of such records, under the superintendence of the revenue officers, assisted by the canongoe office, to be re-established for that and for other purposes, and in communication and concert with the zemindars and principal rayats of each pergunnah; and I had made a considerable progress towards maturing the plan of this great undertaking. But, after much consultation with the late Acting President of the Board of Revenue (Mr. Crisp,) and with other experienced and well informed officers of the Revenue Department, I have been diverted from this project by the apprehension, that the intelligence and activity requisite for the due superintendence of its execution within each zillah, are not to be universally nor generally expected; and that, if it were ill performed, it might, not improbably, add to the subsisting evils, instead of remedying them. On the maturest deliberation upon this difficult and intricate

ted in the second volume of this Analysis, page 348,) having made it necessary to limit, for the present, the powers declared to be

Section 2, Regulation 5, 1812, in Cuttack; and well as in all

intricate subject, I am compelled, however reluctantly, to relinquish the idea of restoring a definite and certain standard, to which appeal may be made for determining the rights of persons having dependent and subordinate tenures under landholders in chief, and for settling the disputes and questions which arise between them. Abandoning this idea, and apprehensive that an entire alteration of the provisions of existing laws, however inefficient, which suppose such a standard, may be productive of alarm, at least, if not of serious and real evil to the tenantry of the country, by abridging privileges, of which they yet have an imperfect enjoyment, I shall content myself with merely proposing, that provision shall be made, by regulation, for cases where the pergunnah rates are not ascertainable, which should regulate the pottahs of khodkasht rayats, or of other persons entitled to a renewal of their leases. This will silently substitute a new and definite rule, in place of ancient, but uncertain, usages. The following are the rules, which I should propose with these views. 1st. In any instance where a khodkasht rayat, or other occupant or tenant, may be entitled, under the existing regulations, to receive a renewed pottah, in consequence of the cancelling of former pottahs, by reason of a publick sale for the recovery of arrears of revenue, or in consequence of any other circumstance rendering requisite the renewal of pottahs, according to the rates of the pergunnah; as well as in every case in which the landholder, farmer, or manager, or other person in charge of the collections, is authorized to collect according to the rates of the pergunnah, in place of subsisting engagements; if, in any such case or instance, it shall not appear that established rates are known in the pergunnah, or other local division, within which the land is situated; or if those rates shall not be assertainable, owing to long disuse or insufficient evidence of them; then, and in every such instance, the renewed pottah shall be granted, and the collections made, in the case of an individual rayat or tenant, at such rate or rates as are paid or payable for other land of similar description, and as near as may be of the same quality, in the vicinity: but in the case of cancelling generally the pottahs of the rayats and tenants of a whole estate, or of an entire mowza, or other local division of the country, the new pottahs shall be granted, and collections made, at rates not exceeding the highest rate paid for the same lands in any one year within the period of three years last past, antecedently to the date of cancelling the pottahs. 2d. In the case of a dependent talookdar, if the rent of the lands be computed according to the rates payable by rayats or cultivators, for land of similar quality and description, a deduction shall be allowed from the gross rent, in the adjustment of the jumma of such dependent talook, at the rate of ten per cent, for the talookdar's profit or income, over and above a reasonable allowance for charges of collection, according to the extent of the talook. In regard to the annulment of leases on presumption of fraud or collusion, I have already stated the rule which I think should be adopted as to that point. In respect to the more extensive power of annulling all leases, when lands are sold for arrears of public revenue; and still more generally the landlord's right, however vested in him, or from whatever cause arising, of enhancing the rents payable by a rayat or occupant; I am of opinion, that further provision should be made for the security of the tenant, in addition to or amendment of, the existing rule, that pottahs shall not be cancelled before the close of the year, in consequence of a sale taking place subsequently to the second month of the year. The principle, on which the amendment I mean to propose, will

the ceded and conquered provinces.
Reg. 14, 1812, Section 2. No zemindar, or proprietor, to grant leases for a term extending beyond the term of his own engagements with Government.

be vested in the landholders by Section 2, Regulation 5, 1812, the following provisions are substituted for that section in Cuttack, (and for a similar reason in the whole of the ceded and conquered provinces,) by Sections 2, and 3, Regulation 14, 1812. §2. "No zemindar, or other proprietor of land, in the ceded and conquered provinces, shall grant leases, or fix the rent of any land tenures, for a term exceeding ten years; or if the term of his own en-

will be founded, is that of a tenant not being liable to pay a greater rent, than he had reason to expect he should be subject to, when he entered on the cultivation of the land for the crop of the current season. Whether his lease had even expired, or were on any account voidable, if he have been nevertheless allowed to commence the cultivation of the ground, at the expense of his money and of his labor, without notice of an enhanced rent, he cannot justly be chargeable with a higher rent than borne by his former lease, or usually paid by him. More, he could not expect, would be demanded from him; and if more be exacted, it is a surprise little short of fraud; since he has been deluded into the expenditure of capital, and the employment of labor, in the confidence of being only subject to the former rent; and has not had the opportunity of choosing between the relinquishment of the land, and the payment of the enhanced rent required of him. It should therefore, in my opinion, be made a universal rule, that no cultivator, or tenant of land, shall be liable to pay an enhanced rent, though subject to enhancement under subsisting regulations, unless written engagements for such enhanced rent have been entered into by the parties, or a formal written notice have been served on such cultivator, or tenant, at the season of cultivations, viz. in the month of Jeth, notifying the specific rent, under the landlord's right of enhancing it, to which he will be subject for the ensuing Fussily, or for the current Bengal year. Unless the due service of such notification be proved, no greater rent should be exigible, by process of distress, or confinement of person, nor recoverable by suit in court, than the cultivator, or tenant, was bound to pay by his previous engagements; and, if more be levied from him, he should be entitled to a refund of the excess, with damages on proof of the circumstances before a court of justice."

Notwithstanding the length of this note, the importance of the subject, as affecting the great body of cultivators and under-tenants, will justify my adding the following extract of a letter, addressed to Government by the Board of Revenue, on the 11th November 1814, in answer to objections stated by a public officer, against the provisions of Regulation 5, 1812, as understood by him to have abridged the privileges of the ryuts, and to have annulled their claim to pottahs, at the purgunnah rates, as declared in Regulations 8, 1793, and 4, 1794. "A reference to the regulations in question, and in particular to Section 3, of Regulation 5, of 1812, will shew that so much of the 7th Section of Regulation 4, 1794, as relates to the privilege of the rayats whose pottahs expire, or are cancelled under Regulation 44, of 1793, to demand new pottahs at the pergunnah rates, is in no respect abrogated, nor their right any wise detracted from; on the contrary the rayat's title to pay according to established rates is recognized, and enforced, in the 6th Section of the regulation in question; and in the following section, provision is made for regulating the collection, in the particular case in which no such rates are known."

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gagement with Government be less than ten years, extending beyond such less term." §. 3. "Any evasion of this prohibition, by entering into separate engagements, or leases, to take effect successively, or by dating an engagement, or lease, on a day other than that on which it was actually executed, or by any other device, shall be considered as an infringement of it. And every lease or engagement fixing the rent, which has been or shall be concluded or granted in opposition to this prohibition, is declared to be null and void."

Section 3. Every evasion of this prohibition to be considered as an infringement of the rule, and leases so granted to be null and void.

In treating of the settlement of Benares,* mention was made of a new form of pottah established by the Rajah, at the desire of the British Resident, in the year 1788; with an important rule, subsequently confirmed by the conditions of a permanent settlement with the landholders and farmers, that the *nukdy*, or money rents, of the ryots, should not, in future, exceed the consolidated amount of the *mal* and *abwab*, or original rent and additional cesses, which existed in the Fussily year 1187. It will now be proper to state these arrangements, with others made at the same period, more specifically. They are detailed in Sections 3, 4, and 5, of Regulation 2, 1795, in the following terms. §. 3. "*First.* With a view to provide against sundry abuses and irregularities in the system of realizing the public revenue, the resident, on the 25th June 1788, desired the rajah to cause a new form of pottah to be established, and issued to the ryots, specifying the denomination and length of the rod by which the *betay* lands (lands of the produce of which Government, or the person having the collection of its dues, is entitled to a certain proportion, the value of which, estimated at the current market price, is paid in money by the cultivator of the land,) were to be measured, in case such measurement should be demanded by either party, on the arrival of the period when the produce of the crops of the ryots is estimated by the mode termed *kunkool*; and as in many places where the revenue was thus paid on such estimations of the harvests,

Mention already made of new form of pottah, and rule of collection from the ryots, in the Benares province, established in 1788.

These arrangements, and others made at the same period, now stated more specifically.

Reg. 2, 1795. Section 3. Clause 1. Provisions for remedying abuses in the system of collecting the land revenue.

Pottahs to specify the measuring rod.

* Vol. 2, page 272.

disputes occurred between the ryot and the aumil, as to the value in money at which the crop was to be appreciated, it was provided, that twice in the year, or for each harvest, the valuation of the crops should be settled for each pergunnah separately, by the authority of Government, and a notification thereof issued; the rates to be paid for the grain, or crops, in the khereef, to be fixed in the month of Maug; and those of the rebby-harvest, in Jeyt; according to the actual masket prices then current in the several parts and divisions of the country. The above mode of estimating the produce, and appretiating the value of the crops, is accordingly in future to constitute the rule for ascertaining the collections to be made from the *betay* lands; and for adjusting the aggregate amount of them for the whole year; the kists due on each harvest being intermediately paid on account, according to the usual proportion of the mofussil kistbundy or instalments. The practice of *agore betay* (taking the Government's half of the produce in kind, after the crop has been reaped, or gathered,) was at the same time forbidden, as affording to individuals the means of defrauding Government of its due proportion of the produce; and in the form of the pottahs for the *betay* lands, it was directed to be specified, whether the value of the produce was to be divided between the aumil and the ryot, in equal proportions, or with such *zabetaneh*, or established difference, as the custom of each pergunnah authorized.*" *Second.* "In the pottahs for *nukdy* land, (land paying

Valuation of crops how to be settled.

Agore betay forbidden.

Clause 2. Provisions respecting nukdy land, paying a

* A qualification of the rule prohibiting the *agore betay* practise, or custom of receiving the rent in kind, was found necessary in a particular instance, as stated in Section 21, Regulation 2, 1795, to the following effect—"The enforcement of the prohibition in Section 3, against *agore betay*, having met with some opposition from certain Brahmins and atteets, the Government share of whose crops had always been ascertained in that mode; and who declared their intention of committing violence on themselves, if it was not adhered to with regard to them; the resident, on the 17th of January 1789, issued a publication, disapproving of the conduct of these Brahmins and atteets; and apprizing themthat the regulation would be enforced. But the practice of *agore betay* having prevailed only in a small portion of the country, and consequently there being little probability of many similar instances of opposition occurring, the resident thought it advisable to accompany this publication with an order to the aumils, authorizing and enjoining them not to insist on receiving a money rent

paying a specific money rent per begah,) the name and length of the null, or measuring rod, was directed to be mentioned; and as since the year 1781,* sundry new articles of abwab and charges had been introduced, the pottah provided, that all new abwab and charges, introduced since the Fussily year 1187, should, from the year 1196 of the same era, be considered as prohibited, and relinquished; and that the *maal* or original rent, and *abwab*, or cesses, which existed in that year, viz: 1187 Fussily, being incorporated with the *maal*, so as to form only one aggregate sum, this sum, or specific rate, should constitute what the ryots, or cultivators, of the *nukdy* lands, were to pay per begah." *Third.* "The rent of waste land, intended to be brought into cultivation, was directed to be fixed at such rates as the ryots might willingly agree to pay, and without abwab." §. 4. "On the 1st of July, 1788, the canongoes were apprized of the above rules, and of the rajah having deputed aumeens for the purpose of carrying them into effect; and they were further informed that they were to co-operate, in fixing the jumma of the *nukdy* lands, and ascertaining the proportion and mode of assessment on the *betay* lands; and that wherever, during the administration of rajah CHEYT SING, the null, or measuring rod, was more or less than the rod of three dirrahs Ilahee, (which rod alone was ordered to be used for the future,) or wherever a begah consisted of a greater or less extent of land than twenty biswahs in the Fussily year 1187, they were to adjust in proportion to these varieties in the rod, and in the extent of the begah, the rates and modes of the *nukdy* and *betay* revenue in one sum; agreeably, and as nearly as might be possible equivalent to, the assul and abwab, or zabetaneh, of that year; and to fix the rates in the pottah accordingly. Pottahs were in consequence issued by the rajah's aumeens, comprehending the above specifications; but not so generally, or accurately, as fully or effectually to accomplish the object of their deputation; and in the rates insert-

Specific money rent for begah.

All new abwab and charges introduced since the Fussily year 1187, prohibited and relinquished.

Clause 3. Rates of fallow or uncultivated lands.

Section 4. Instructions for carrying these provisions into execution.

rent from such of the abovementioned Brahmins and atteets, as should persevere in their objections; but to continue the practice of *agore betay* with regard to them, until they should consent to the payment of a money rent, as well as to the rate of the rent. This order was sanctioned by Government."

* Corresponding partly with the Fussily year 1188.

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ed in these pottahs, they likewise omitted to make allowance for the difference between the old and new measuring rods and begahs." §. 5. "The begah of three dirrahs Ilahee, thus established, consists of twenty poles, each measuring eight feet, and four inches, and eight-tenths of an inch; the whole length being one hundred and sixty eight feet; giving a surface, or area, of twenty-eight thousand two hundred and twenty-four square feet, or three thousand one hundred and thirty-six square yards; and the biswah, or twentieth part of this begah, of one hundred and fifty-six square yards, and eight-tenths of a yard. On its appearing that several of the aumils, and canongoes, understood that the *kesraut*, or difference in the length between the former and present measuring rods, was to affect the assessment on all kinds of cultivation, the resident issued an explanatory notification on the 12th of May 1789, to the following effect, viz. In the places where the null, or rod, of 1187, was less than the general standard rod, established for that year, such difference was to be taken, and calculated per begah, on the *jummaee*, or *kowlee*, i. e. *nukdy* land; and also upon that known under the denomination of *rye-kunkooty*, or land, the produce of which is calculated at a fixed or usual quantity per begah; and the revenues rated thereon accordingly. Thus, where the *rye kunkooty* had been three maunds, or four maunds, or taken at any other specific estimate per begah, according to the *rye*, or rate, of 1187, upon the ryot's cultivation in general, either on each distinct kind of produce, or upon a medium of the first, second, or third kinds of produce; in such cases, on the principle prescribed with respect to the *nukdy*, the difference of the rod was to be taken in all instances, where actual mensuration, by the new rod of three dirrahs Ilahee, should, at the desire of either party, be resorted to, for ascertaining the whole extent of ground in cultivation. But on the contrary, where the aumeen of the aumil, in the mode termed *kunkoot*, should proceed with the *gowro* or estimator, and the gomastah of the canongoe, and these two last mentioned officers, with the consent of both parties, should estimate the produce of the

Section 3. Extent and dimensions of a begah of ground according to the authorized measurement of three dirrahs Ilahee.

In what cases the kesraut, or difference between the old and new measuring rods, was to be taken into account.

the crop on an inspection of it, without measurement, the taking the difference of the rod was neither necessary nor proper, the whole produce being estimated without reference to the extent of the begah. All parties were required to attend to the letter and spirit of these prescriptions; and in conformity thereto, it was further signified to them, that where the crops were estimated in the mode termed *danabundy kunkooty*, that is, where the revenue is assessed according to the gross produce, without a measurement of the ground, the kesraut, or difference between the old and newly established rods, was not to be taken; as in these instances the revenue payable to Government was not calculated on the extent of the ground, but on the gross quantity of the produce. It having appeared also, that in the old nulls, or lettas, (measuring rods, or ropes) the ryots had been defrauded by the aumil's unduly shortening them, by subtracting from their length the *mour*, or loops, at each end, it was ordered that in ascertaining the difference between those new and old nulls or lettas, the full length of the old ones should be allowed in favour of those who pay the revenue inclusive of the *mour*, or loops."

Provision where the crops were estimated in the mode termed *danabundy kunkooty*.

Rule as to the mour, or loops, of the measuring ropes.

Reg 51. 1795. Further measures adopted, and rules established, for ryotty pottahs, in Benares.

Section 2, Clause 1. Measures adopted for causing bilmokta pottahs to be granted to the ryots.

Regulation 51, 1795, *respecting ryotty pottahs in the province of Benares*, contains the following further recital of measures adopted, and rules established, in that province. §. 2. *First.* "Orders were repeatedly issued to the aumils and canongoes, to cause the zemindars and farmers to issue to their ryots *bilmokta* pottahs, (i. e. pottahs with the maal and abwab consolidated,) for the *nukdy*, or money part of the rent payable to them, and to specify therein, where the rent is estimated according to the produce, the mode of the *belay*, or division of the crop; and also the proportions in which the division was to be made; (viz. whether in equal proportions, or in the proportions of seven to nine, or of five to two, or of two to one, or according to whatever local *zabetaneh*, or custom, might be prevalent in each place;) and the aumils were also repeatedly enjoined to issue similar pottahs, in those parts of the pergunnahs which continued amauny. There being ground to believe, however, that notwithstanding

 these

these orders, the prescribed pottahs had not been duly issued, aumeens were deputed on the 12th of February 1795, to cause them to be granted, throughout all that part of the four circars, to which the general settlement had extended. The aumeens, thus deputed, were accordingly furnished with instructions to cause the talookdars, zemindars, and farmers, in the *mushukhusee* mozahs, or villages for which a settlement had been concluded, and the aumils in the villages which remained *amauny*, to grant the prescribed pottahs to the ryots and cultivators, in conformity to a draft prepared for the purpose. The pottahs to be granted to every ryot and cultivator, in the *mushukhusee* villages, to specify, with precision, the rates of payment according to the two last years, as far as regarded the *nukdy*, or money part thereof; and also the modes and proportion of the *betay*, where the payments of the ryots were estimated in kind, or upon the produce; and in the event of the rates, to be thus inserted in the pottahs, being any where disputed between the aumils or malgoozars on the one part, and the ryots on the other, such disputed rates were directed to be regulated and adjusted, on reference to the accounts of the putwarries, and with the assistance of the canongoes; so that, consideration being had to the present condition of the ground, and the cast of the cultivator, the *bilmokta-rye* or rate, inclusive of maal and abwab, on account of such ground, might be fixed at the same rate as that at which a cultivator of the same cast would have been assessed for it, in the Fussily year 1187." *Second.* "Under these instructions, where the custom of *mootry* (or the payment of one general rate for different kinds of ground and of crop) was found to prevail, the aumeens were directed to continue it; and even to endeavour to extend it, wherever the parties concerned might voluntarily agree to its adoption." *Third.* "In pottahs issued for a money rent, with the exception of those granted for mootry tenures, the number of begahs, the description of begah, (viz. whether the begah computed by the rod of three deras ilahee, the begah of the measure prevalent in the pergunnah, or the dherawat, or begah ascertained by estimate,) and the *bilmokta-rye*,

Clause 2. Pottahs for mootry tenures.

Clause 3. Nukdy or money rent pottahs for tenures not mootry.

ta-rye, or consolidated rate of assessment, on each of such begahs, were directed to be specified, so as to preclude the necessity of superadding to such rate the *kesraut*, or difference of rate, proportionate to the variation in the extent of the several descriptions of begahs. For this purpose it was ordered, that the malgoozars and ryots, with the assistance of the opinions of the canongoes, and the approbation of the aumeens, should fix at once the *bilmokta-rye*, or consolidated rate, in one sum, in proportion to the extent of the begah; leaving it to the parties to determine on which of these three descriptions of begahs the calculation of the *rye* should be made, instead of confining them to one description of begah, as had been prescribed by the rule contained in Section 4, Regulation 2, 1795." *Fourth.* "In the event of any of the putteedars being desirous of obtaining pottahs for the land cultivated by them, the aumeens were instructed to cause the pottahdars, or persons holding pottahs of Government, to grant pottahs accordingly, in conformity to the principles above prescribed. But if such putteedars should not apply for pottahs, the aumeens were informed, that they were not to cause pottahs to be granted to them, but were to leave them to continue to pay as formerly, i. e. subordinately to, and in conjunction with, their principals." *Fifth.* "In the *mushukhusee* lands, these pottahs were directed to be issued with the concurrence of the aumeen, and under the signatures of the grantors, (i. e. the pottahdars of Government,) and to be attested also by the canongoes. In the villages which were continued *amauny*, it was directed that the said pottahs should be issued by the aumils, under their signature, and the attestation of the canongoes, and that they should also be countersigned by the aumeens; as for the future the aumils neither had, nor were to possess, any authority to augment or diminish the rental of Government; their duties being limited to the realizing of the fixed revenue; the preservation of the peace throughout their respective limits; and the execution of such orders as might occasionally be addressed to them." *Sixth.* "The *zeyl*, or detailed particulars, annexed to the form of pottah, with which the aumeens were furnished, contained an enumeration of the different

Rule for obviating the necessity of any addition on account of kesraut, or difference in the extent of the begah.

Clause 4. In what instances such pottahs might be granted to the putteedars, or subordinate sharers.

Clause 5. How these pottahs were to be granted and attested in the mushukhusee lands. And how, in the amauny villages.

General duties of the aumils in future.

Clause 6. Rules for adopting, and distinguishing in the pottahs, the different denominations of culture and of begahs.

ferent modes of ryotty payments, whether of *mootry*, *nukdy*, *herkowla*, or *betay*; and of *purtee*, *keel*, and *jungle*, *&c.* one or other of which would necessarily be found applicable to the land and circumstances of every cultivator; and it was pointed out to the aumeens, that the pottahs of those ryots only, whose cultivation was carried on agreeably to the practice termed *mootry*, and no other, were to specify the amount of the rent annexed to their pottahs, under that single head only; whilst, in instances in which ryots cultivated not only on *mootry*, but also on *nukdy*, and *betay*, agreements; this form of pottah also prescribed how the particulars of the *zeyl* were, under such circumstances, to be subjoined; at the same time that it comprehended, under the several heads of cultivation, a specification of the denomination of begah, in order that as all the three descriptions of begahs, particularized in Clause Third, were more or less in use in the province, it might be left to the option of the malgoozars and ryots, to adopt in their engagements which ever of these three standards they might prefer; the aumeens being required only to see that the description of begah agreed on should in every instance be specified." *Seventh.*

Clause 7.

"The following is a translate of the general form of pottah, with which the aumeens were furnished:"

General form of pottah.

"A pottah of engagement and stipulation, in the name of ——— ———, according to the *zeyl*, without *abwab* or *serf*; the *fota*, or rent, for the entire year of the cultivation, shall be taken *bilmokta*, or according to one rate; and exclusive of that, neither a *daam* or *dirm* shall be taken."

Zeyl, or annexed specification of Rent.

Nukdy, or money rent.	*Bhawullee* or *betay*, i. e. where the rent is in proportion to the crop.
1st *mootry*, 12 begahs, (either of three dera ilahee, or pergunnah begahs, or dherawat, viz. estimated begas;) at 3 rupees 2 annas, per begah, rupees 37 8 0.	THE begah to be of 3 dera ilahee measurement, or pergunnah, or dherawat measurement;

2d.

2d. *Kwyraur, &c.* (being for the more valuable articles of cultivation,) 13 begas; (whether of three dera ilahee, or pergunnah measurement, or dherawat,) viz: sugar cane, 10 begas, at five rupees one anna per begah,...50 10 0

Tobacco, 2 begahs, at six rupees per begah,.....12 0 0

Moolee, or vegetables, 1 begah, at two rupees one anna per begah, ... 2 1 0

64 11 0

and where, from change in the cultivation, a new pottah shall become necessary, it shall be granted according to the rates of the two last years, with the privity of the canoongoes, according to the *shirabundy*, or established rates of the pergunnah; and I (the zemindar, or farmer,) shall certainly not object to give a pottah.

3d. *Herkowla*, or for common nukdy cultivation, 12 begahs (either the three dera ilahee, or of pergunnah measurement, or of dherawat,) at different rates, viz.

ment; and the rent to be assessed by *kunkoot*, or appraisement; either at half and half; or nine to seven; or five to two; or two to one; according to the local usage; and the money assessment thereon to be according to the current market price, as fixed for each harvest by Government.

PURTEE, and keel, and jungle land, according to the good will of the parties; either on a nukdy or betay engagement.

1st. 2 begas at	1	8	3	0	0
2d. 3 begas at	1	12	5	4	0
3d. 3 begas at	1	4	3	12	0
4th. 2 begas at	1	0	2	0	0
5th. 1 bega at	1	2	1	2	0
6th. 1 bega at	0	12	0	12	0
			15	14	0

Section 3. Clause 1. Precaution taken on the departure of the aumeens to apprize the landholders of the object of their deputation.

§. 3. *First.* "On the departure of the aumeens, the strongest assurances were published to all the zemindars and farmers, that the object of the deputation was solely to ensure from them that justice to their ryots, which Government had bound itself to observe to them, by concluding with them a permanent settlement, the conditions of which would on no account be infringed. A considerable degree of jealousy however was manifested by the zemindars and farmers, during the progress of the aumeens; several of whom represented the difficulties which they experienced in the execution of their instructions, both from the above and other causes. These difficulties are stated in the following clauses, with a view to future eventual arrangements." *Second.* "The aumeen in the tuppah of Ophroude, in the pergunnah of Chourassy, represented, that several places in that tuppah were without putwarries; and as similar complaints were received from other parts of the district, the aumeens were in reply directed to cause the proprietors, and farmers, to appoint putwarries wherever they were wanted; and in the mean time, to oblige the gomastahs of the said proprietors or farmers, or the officers entertained for keeping such written or other village accounts as are kept, to produce them to the courts of judicature, or to the collector, in the instances in which either are empowered by the regulations to require them." *Third.* "Several ryots in the pergunnah of Chownsa, and other parts, who had been used to divide the grain with the zemindar, or farmer, in the mode called *agore*, according to the produce, would not take

Notwithstanding which they experienced difficulties in their progress.

Clause 2. Rule for their guidance, where no putwarries were found in an estate, or farm.

Clause 3. Refusal of certain descriptions of ryots to take pottahs.

take pottahs, specifying either any rent per bega, or even the number of begas which they cultivated; circumstances that are adverted to, and in some measure provided for, in Section 21, Regulation 2, 1795." *Fourth.* "The aumeen in the tuppah of Kone, in the pergunnah of Chourassy, represented, that sundry zemindars had mortgaged a part of their lands to other zemindars, and had in consideration thereof, given them pottahs at lower rates than the established ones, so as merely to prove equal to the payment of Government's jumma; whilst the mortgagees caused the grounds in question to be cultivated by other ryots, from whom they took the usual rate of rent. The aumeens desired instructions whether they should cause pottahs to be given to these mortgagees, according to those which they held from the zemindars; or whether the pottahs should be issued at such rates as the mortgagees exacted from the ryots. In reply to this application, the aumeens were directed to cause pottahs of the last mentioned description to be issued to the ryots; not however by the proprietors, but by the mortgagees; and they were further informed that this rule was to be observed in all similar cases." *Fifth.* "It appearing by a representation from the aumeen at Mureeahoo, that the zemindars and farmers concealed the revenue lands in their occupancy, by pretending to have assigned them in larger proportions, than was ever usual, to the putwarries, for their maintenance, or otherwise; the aumeen was instructed not to admit of this abuse; but to cause pottahs to be issued for all grounds over and above the usual quantity granted to the putwarries for their maintenance in their official situations." *Sixth.* "The aumeen in the pergunnah of Baleeah represented, that although his instructions required that the rate of rent should be fixed *bilmokta*, or in one sum, there were circumstances which rendered the observance of this rule in some instances impracticable; such as various abwabs proportionally added, in the *belay* ryotty tenure, to the money result of the jummah, or valuation of the crop, according to the market prices of grain; these abwabs being often at the rate of one anna, or of two annas, per rupee, on the valuation

Clause 4. How pottahs are to be issued to the ryots, in mortgaged lands.

Clause 5. Attempt of zemindars and farmers to conceal the funds of their estates by pretended grants to the putwarries. Excess above usual quantity disallowed.

Clause 6. Difficulty in respect to belay pottahs, from the custom of superadding abwab, to be proportionably levied on the valuation of the crop. Rule to be observed in such cases.

tion of the crop, on account of *batta*; and perhaps, of three annas for the *dehkkurch* per bega; whilst in several other villages, these articles of batta and khurch were levied uniformly at a certain rate per rupee, on the amount of the valuation of the crop, as aforesaid. That it was therefore evident, that these money rates could not be taken into account, so as to admit of their amount being ascertained in a *belay* pottah, further than by fixing their proportional rates in the rupee on the amount of the valuation of the crop, or on the bega of the cultivation, as the local custom might in either case require. This aumeen was accordingly instructed to confine himself to the insertion of these proportionate rates of abwabs." *Seventh.* "It appeared that in sundry villages in the pergunnah of *Kureendeh*, it had been and continued the custom amongst the malgoozars and assamies, (i. e. the zemindars or farmers, and the ryots,) to carry on their cultivation, and keep their accounts, according to the practice termed by them *cucha dherawal gortaur*; that is, where the begas are measured by steps, of which one bega is equal only to eight *pukhta biswas*; and two and a half of *cucha begas* to one *pukhta bega*. The aumeen in that pergunnah having hereon reported, that the ryots in such places could not be made, without great difficulty, to comprehend the advantage of calculating by the *pukhta*, instead of the *cucha* bega, directions were given that their own customs should be continued, on condition that the description of the bega, and the mode of measurement, should be clearly specified in the pottahs to be granted in such places." *Eighth.* "In the said pergunnah of *Kureendeh*, it was on the same day ordered, in reply to a query from the aumeen, that where the serberakars, or managers, (mentioned in Section 17, Regulation 2, 1795,*) were on terms of good understanding with the zemindars, they might, if they pleased, affix their signatures to the pottahs to be granted to the ryots; but that wherever it became a question, which of them should have the preference, it must be allowed to the serberakar, as long as the latter remained responsible for the revenue."

Clause 7. The small bega, used in pergunnah Kureendeh, continued at the desire of the ryots.

Clause 8. Further special provision for Kureendeh, in respect to signing the pottahs of the ryots by the managers of joint zemindars.

* See Vol. 2, page 283.

Ninth.

Ninth. "The same aumeen having reported, that in Pehaurpoor, and some other villages in Kureendeh, he had issued the pottahs, in the terms of his instructions, although in fact it had been and still was customary for the zemindars, putteedars, and other chupperbund assamees, or ryots, to meet together, and lay on such a money assessment on the Government's half of the grain, as might make up the public revenue; it was thereupon ordered, that those who preferred this mode, might adhere to it, and even have this condition inserted in their pottahs, without the stipulation that such assessment should be founded on the market price, as is the rule in general for all other places." *Tenth.* "The aumeen in the pergunnah of Mohammedabad reported that certain persons in that district, claiming to be the descendants of the antient zemindars of villages now rented to farmers, refused to receive pottahs for the ground which they cultivated from the latter, alleging that they should thereby suffer degradation." §. 4. "The deputation of the aumeens, and their proceedings, having been reported to the Governor General in Council, he observed, in his reply of the 26th June 1795, that difficulties, similar to those stated by the aumeens in Benares, had been experienced in enforcing the regulations regarding pottahs in the other three provinces. That in many places, the ryots had omitted to take out pottahs, or objected to receive those tendered to them agreeably to the regulations; and that owing to the variation in the rates, in the different pergunnahs and districts, and other local circumstances, disputes had been occasioned, where both the proprietor and the cultivator of the lands were before satisfied with the rates of assessment that had been mutually agreed upon between them. That the rules regarding pottahs, contained in Regulation 4, 1794, for the provinces of Bengal, Behar, and Orissa, had in consequence been passed, under which, if any dispute arose between a proprietor or a farmer of land, and a ryot, regarding the rates of pottahs, the latter, by application to the Courts of Judicature, could always obtain a pottah at the antient and established rates of the district; and that where no such dispute subsisted, the interference of Government

Clause 9. Mode of raising the revenue in certain villages, by a money assessment on Government's share of the grain.

Clause 10. Refusal to accept pottahs from farmers, by claimants to the land in certain villages of pergunnah Mohammedabad.

Section 4. Government's order to recal the pottah aumeens.

 was

was of course unnecessary. That from these considerations, and as the variations in the rates in the different districts, and in the quality of the lands in Benares, might render it extremely difficult for the aumeens to fix the rates and the terms of the pottahs to the satisfaction of both parties; and as there might be considerable danger of their often favoring one or other of them; the Governor General in Council directed the aumeens to be recalled; and ordered, that rules similar to those contained in Regulation 4, 1794, should be adopted in Benares; it being presumed that the operation of them would gradually lead to the defining and fixing the rates to be paid for land in the different districts and villages, where any dispute might subsist respecting them; without incurring the inconveniences liable to arise from attempting to effect this object at once by the deputation of aumeens." §. 5. "In pursuance of the directions in the preceding section, the pottah aumeens were recalled on the 8th of July 1795; and with respect to the progress which they made in granting pottahs, wherever it shall appear that they have caused pottahs to be granted in deviation from the letter and spirit of the instructions under which they acted, such pottahs are to be deemed invalid, and are to be so adjudged in any court of justice; whilst, on the other hand, the operation of those, in which the parties have acquiesced, is to be admitted. This last mentioned rule can be productive of no injury to either party; as all the pottahs, with the exception of those for the mootry tenures, are liable to annual renewal, in consequence of the alteration that unavoidably takes place in the annual cultivation of the ryots." §. 6. "On the recal of the aumeens, they were directed to make it known, that it was expected and required of the talookdars, zemindars, and farmers, that they should complete the issuing of the pottahs to their ryots, in the form and manner required in Section 2. The proprietors and farmers of land are accordingly hereby allowed until the expiration of the Fussily year 1204, for granting these pottahs; and after that period, no engagements for rent (exclusive of the exceptions in the cases specified in Clauses Third, Ninth,

Section 5. Recal of the pottah aumeens, and how far the pottahs issued by them are to held valid.

Section 6. Further period allowed for distribution of pottahs, by the landholders and farmers.

Ninth, and Tenth, Section 3, the usages detailed in which are to be admitted,) contrary to those ordered in that section, or such other as the collector, with the sanction of the Governor General in Council, may prescribe, shall be held valid; and the parties prosecuting under such informal engagements, shall be nonsuited with costs."* §. 7. "To provide against the ryots refusing or omitting to take out or receive pottahs, although the persons from whom they are entitled to demand them be ready to grant them, in the form and on the terms that now are, or may be hereafter prescribed, by this or any future regulation, it is declared, that if a proprietor, or farmer of land, shall fix up in the principal cutcherries, in his estate, or farm, a notification in writing, under his seal and signature, specifying that pottahs according to the form prescribed in Clause Seventh, Section 2, or such other form as the collector, with the sanction of the Governor General in Council, shall have approved, and at the established rates, will be immediately granted to all ryots who may apply for them; and stating where, and when, and by whom, the pottahs will be delivered; the notification shall be considered as a legal tender of a pottah; and the proprietor of land, or the farmer, shall be deemed to have complied with the order; and the persons so tendering pottahs shall be entitled to recover the rents due to them from such ryots, as fully and effectually, to all intents and purposes, as if there existed written engagements between the parties." §. 8. "The approbation of the collector, in respect to the pottahs, is to be considered to extend to the form only; as far as regards which, he is, under the orders of Government, authorized either to adhere to that contained in Clause Seventh, Section 2; or to adopt such other forms as the local circumstances of the district may, in any part thereof, render more expedient. But in all cases of deviation from the form aforesaid, the collector is to signify his approbation of the new form of pottah introduced, by superscribing it with his name and official appel-

Section 7. Rule for cases in which ryots omit or refuse to take out the prescribed pottahs.

Section 8. All new forms of pottahs to be registered in the city or zillah courts, and copies to be deposited in the principal cutcherries of the estate, or farm.

* This rule is modified by Section 3, Regulation 5, 1812, as more fully noticed in the sequel.

lation;

lation; and thereupon, he is to register a copy of such form, or forms, in the Dewanny Adawlut of the city, or zillah, within the jurisdiction of which such pottahs are to be issued; and to cause a copy thereof to be deposited in each of the principal cutcherries of the estate, or farm, or talooka, in which such pottahs are to be granted." §. 9. "If a dispute shall arise between the ryots, and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs, (whether the rent be payable in money or kind,) it shall be determined in the Dewanny Adawlut of the city, or zillah, in the jurisdiction of which the lands may be situated, according to the rules established in the pergunnah, or tuppah, or talooka, for lands of the same description and quality, and for the same cast of cultivators, as those respecting which the dispute may arise." §. 10. "The rules in the preceding section are to be considered applicable, not only to the pottahs which the ryots are entitled to demand in the first instance, but also to the renewal of pottahs which may expire, or become cancelled; and it is declared that no proprietor, or farmer of land, nor any other person, shall require ryots, whose pottahs may expire, or become cancelled, to take out new pottahs at higher rates than the established rates of the pergunnah, for lands of the same quality and description; due consideration being had, as far as may be required by the custom of the district, to the alteration of the species of culture, and the cast of the cultivator. Under this rule, khodcasht or chupperbund ryots, will be entitled to have their pottahs renewed at the established rates, upon making application for that purpose to the person by whom the pottahs are to be granted; as are also paycasht ryots, provided the proprietor or farmer chooses to permit them to continue to cultivate the land, which they have the option to do, or not, as they may think proper, on the expiration of all paycasht leases; whereas khodcasht ryots cannot be dispossessed as long as they continue to pay the stipulated rent."

Section 9. Disputes regarding the rates of pottahs to be determined in the Dewanny Adawlut, according to established local rules.

Section 10. The same rules applicable to the renewal of pottahs, that may expire, or become cancelled.

Distinction between the khodcasht and paycasht ryots, and title of the former to permanent possession.

Restrictions against fixing

RESTRICTIONS against disposing of a "dependent tenancy to be held

held at the same or at any jumma, for a term exceeding ten years," as well as against letting any lands in farm, or granting pottahs to ryots or other persons, "for a term exceeding ten years," similar to those which have been cited from Section 2, Regulation 44, 1793,* for the lower provinces were established, (with corresponding exceptions, as far as applicable,) for the province of Benares, by Section 2, Regulation 50, 1795; but this section was rescinded by Section 2, Regulation 5, 1812; and the provisions contained in the latter, as well as in Section 2, Regulation 18, 1812, whereby proprietors of land are declared competent to grant leases in perpetuity, or for any period, not extending beyond their own interest in the property, or exceeding their authority over it, (subject to the general rules established in cases of public sales for arrears of revenue,) are equally in force for Benares, as for the provinces of Bengal, Behar, and Orissa.† Section 3, Regulation 5, 1812, whereby proprietors of land are declared competent, under certain restrictions against arbitrary or indefinite cesses, "to grant leases to their dependent talookdars, under-farmers, and ryots, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient, and most conducive to their respective interest," must also, under the general terms of the preamble to Regulation 5, 1812, be considered applicable to Benares, and consequently to have modified some of the provisions which have been cited from Regulation 51, 1795; especially that contained in Section 6, which rendered invalid pottahs and other engagements for rent, not prepared according to the prescribed form, after the expiration of the Fussily year 1204.

rents, or granting leases, for a period exceeding ten years, contained in Section 2, Regulation 50, 1795. But rescinded by Section 2, Regulation 5, 1812.

And provisions of the latter section, as well as of Section 2, Regulation 18, 1812, which have been stated for lower provinces, in force also for Benares.

Section 3, Regulation 5, 1812, also applicable to Benares, and consequent modification of parts of Regulation 51, 1795.

The proclamation issued on the 14th July 1802, by the Lieutenant Governor, and Board of Commissioners, in the provinces ceded by the Newab Vizeer, under date the 10th November 1801,

Regulation 25, 1803, Section 29. Articles respecting rents and pottahs, in proclamation for settlement

* In page 472 of this volume.

† See page 473 and sequel.

of the provinces ceded by the Newab Vizeer.

has been stated, at length, under the head of *assessment of upper provinces.** In the 10th Article of that proclamation, the landholders and farmers, with whom a settlement might be formed for the land revenue, were advised, that "all authorized abwabs are to be consolidated and incorporated with the land-rent, and expressed in the pottahs and cabooleeuts; and nothing but what is there expressed shall be collected from the ryots or under-renters. All persons who may enter into engagements for the settlement, must bind themselves, by written obligations, to give pottahs of the above description to their ryots and under-renters." Provisions to the same effect made part of the rules of settlement prescribed by Secion 53, Regulation 27, 1803.† And corresponding clauses were enacted and published, in Sections 13, and 14, of Regulation 9, 1805, for the settlement of the provinces ceded by DOULUT RAO SENDHEEA and the PESHWA ‡ In pursuance of the principles thus established, and with a view to provide more effectually for the accomplishment of them, the following rules were prescribed by Regulation 30, 1803, for the provinces ceded by the Newab Vizeer, and extended to the provinces ceded by DOULUT RAO and the PESHWA, by Section 20, Regulation 8, 1805; the preamble to the former regulation declaring it "essential to the mutual rights and interests of zemindars and other landholders, and farmers of land, and of their under-renters, tenants, and ryots, that the terms and conditions of all engagements entered into between them, for the payment of rents, should be clearly and specifically defined; whereby the courts of justice, in all cases of exaction, evasion, or litigation, may be enabled to ascertain and determine the exact amount demandable." §. 2. "Every zemindar, or other actual proprietor of land, or farmer of land, who may have entered into engagements with Government for the public revenue of his zemindarry, or other estate, or farm, shall be at liberty to let the lands of his zemindarry, or other estate, or farm, under

And in Clauses 11, 12, of Section 53, Regulation 27, 1803.

Correfponding clauses for settlement of provinces ceded by DOULUT RAO and the PESHWA, in Sections 13, 14, Regulation 9, 1805.

Rules prescribed for giving effect to above clauses, in Regulation 30, 1803; extended to provinces ceded by DOULUT RAO and the PESHWA, by Section 20, Regulation 8, 1805.

Regulation 30, 1803, Section 2. Actual proprietors to let their lands under the prescribed restrictions in whatever manner they may think proper.

* Vol. 2, page 301.
† Vol. 2, page 308.
‡ Vol. 2, page 324.

the

the restrictions prescribed by this regulation, and by any other regulation published in conformity to Regulation I, 1803, in whatever manner he shall think proper, consistently with the rights of the dependent talookdars, ryots, or other descriptions of under-tenants, and cultivators of the soil; but every engagement contracted with dependent talookdars, under-renters, tenants, and ryots, or tenants of whatever denomination, shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land, or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount." §. 3. "No person contracting with a zemindar, dependent talookdar, or other actual proprietor, or farmer of land, or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections, without an aumilnamah, or written commission, signed by such zemindar, independent talookdar, or other actual proprietor, or farmer of land. §. 4. "*First.* The impositions upon the ryots, under the denomination of *abwab*, *mhatoot*, and other appellations, from their number and uncertainty, being intricate to adjust, and a source of oppression to the ryots, all proprietors and farmers of land were required, by the proclamation published on the 14th of July 1802, by the Honorable the Lieutenant Governor and the Board of Commissioners in the ceded provinces, to consolidate the whole of the authorized abwabs with the assul jumma; and to grant pottahs to their under-renters and ryots for a specific sum. As a sufficient period of time will have elapsed, during the second triennial settlement of the land revenue in the ceded provinces, (which will expire with the Fussily year 1215,) to enable the proprietors and farmers of land to complete the adjustment and delivery of pottahs for the whole of their lands, in the mode prescribed; the expiration of the Fussily year 1215 is hereby declared to be the period fixed for the general delivery of pottahs

Section 3. No person to take charge of the lands, or collections without an aumilnamah from the proprietor or farmer.

Section 4. The delivery of pottahs, under this regulation, to be completed by the expiration of the Fussily year 1215, in provinces ceded by the Vizier.

as

Regulation 8, 1805. Section 20. Period of three years, after conclusion of settlement, allowed in provinces ceded by Doulut Rao, and the Peshwa.

as hereafter specified." *Second.* "Instead of the period specified in the above clause, a period of three years, from the conclusion of a settlement with the several landholders and farmers, in the provinces ceded by Doulut Rao Sendhea and the Peshwa, is allowed to them for consolidating the rents of the ryots, and granting pottahs as required."

Regulation 36, 1803 Section 5. Proprietors and farmers of land, prohibited imposing any new abwaub or mhatoot upon the ryots; under a penalty equal to three times the amount.

§. 5. "No actual proprietor of land, or dependent talookdar, or farmer, or tenant of land, of whatever description, shall impose any new abwaub or mhatoot upon the ryots, under-tenants, or cultivators, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered, that new abwaub have been imposed, the person imposing and receiving the same shall be liable to this penalty, for the entire period of such impositions."

Section 6. Variations of pottah according to articles of produce admitted, under certain restrictions.

§. 6. "It is expected that, in time, the proprietors of land, dependent talookdars, and farmers of land, and the ryots, will find it for their mutual advantage to enter into agreements in every instance for a specific sum, for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit. Where, however, it may be the established custom to vary the pottah rent for lands, according to the articles produced thereon, and the actual proprietors of land, dependent talookdars, or farmers of land, and ryots, in such places, shall prefer an adherence to this custom, the engagements entered into between them shall specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease; and a stipulation, that in the event of the species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on; and, in the event of any new species being cultivated, a new engagement, with the like specification and clause, shall be executed accordingly.

Section 7, Clause 1. What the pottahs to be delivered to the ryots are to contain.

§. 7. *First.* "The rents to be paid by the ryots, by whatever rule or custom they shall be regulated, shall be specifically stated in the pottah; which in every possible case, shall contain the exact sum to be paid by them."

them." *Second.* "In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, on or a survey of the crop; or where they are made payable in kind; the rate and terms of payment, and proportion of the crop to be delivered, with every condition, shall be clearly specified." §. 8. "Every zemindar, independent talookdar, or other actual proprietor of land, and every dependent talookdar, and farmer of land, shall prepare the form of a pottah or pottahs, conformably to the rules above prescribed, and adapted to the circumstances of his estate, talook, or farm; and every ryot shall be entitled to receive corresponding pottahs, on application for the same." §. 9. "If a dispute shall arise between the ryots, or other under-tenants, and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs, (whether the rent be payable in money or kind,) it shall be determined in the court of adawlut of the zillah in which the lands may be situated, according to the rates established in the pergunnah, for lands of the same description and quality, as those respecting which the dispute may arise; or according to the legal and established rights of the parties; whether the same be ascertainable by written engagements, or defined by the laws and regulations; or depend upon general or local usage, which may he proved to have existed from time immemorial; this regulation not being meant to define, or limit, the actual rights of any description of landholders, or tenants, which can be properly ascertained and determined by judical investigation only." §. 10. "The rule in the preceding section shall be considered applicable, not only to the pottahs which the ryots, and other under-tenants are entitled to demand in the first instance, under the proclamation published by the late provisional Government in the ceded provinces dated the 14th July 1802; under the Eleventh and Twelfth Clauses of Section 53, Regulation 27, 1803; and under this regulation; but also to the renewal of pottahs or leases which may expire or become cancelled under

Clause 2. Rule where the rate only can be specified; and for payments in kind.

Section 8. Proprietors of land to prepare forms of pottahs. Ryots entitled to corresponding pottahs, on application for the same.

Section 9. Rules for determining disputes regarding the rates of pottahs to be granted under this regulation.

Section 10. Rule in the preceding section applicable to the renewal of pottahs that may expire or become cancelled under Regulation 47, 1803.

Regulation 30, 1803. Section 21; and Regulation 8, 1805. Section 20. Ryots may demand pottahs of proprietors of land, and farmers, who are also required to grant them. Penalty in case of refusal.

Regulation 47, 1803."* §. 11. "A ryot, when his rent has been ascertained and settled, may demand a pottah from the actual proprietor of land, dependent talookdar, or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the pottahs, upon being proved in the court of adawlut of the zillah, shall be punished by the court, by a fine proportioned to the expense and trouble of the ryot, in consequence of such refusal. Actual proprietors of land, dependent talookdars, and farmers, are also required to cause a pottah for the adjusted rent to be prepared and tendered to the ryot; either granting such pottah themselves, or intrusting their agents to grant the same. No farmer, however, shall grant a pottah extending beyond the period of his own lease; nor shall any agent grant a pottah without authority from the proprietor, or dependent talookdar, or the manager of disqualified proprietors." §. 12. "Nothing contained in this regulation shall be construed to authorize any zemindar, or other actual proprietor of land, or any farmer of land, or any other person whatever, to demand an increase of rent from any mocurrerydar, istimrardar, or other description of under-tenant of land, who at the period of the cession to the East India Company, (viz. the 10th November 1801, in the provinces ceded by the Newab Vizeer; the 30th December 1803, in the provinces ceded by DOULUT RAO SENDHEA; and the 16th December 1803, in zillah Bundlecund ceded by the PESHWA;) shall have been entitled to hold his tenure at a fixed annual rent, and shall have actually held the same at a fixed, invariable, amount, for twelve complete years before that period. On the contrary, any such under-tenants, provided they shall clearly establish, that, by the conditions of their tenures, they were not liable to any increase of rent, and that they actually paid a fixed, invariable annual rent during the above period, are hereby declared exempt from all en-

Restrictions on farmers and agents in granting pottahs.

Regulation 30, 1803. Section 12. Restrictions relative to the assessment of certain descriptions of istimrardars, who are to be considered as lease holders.

* The provisions of this regulation, which annul engagements for rent, in cases of public sales for arrears of revenue, have been mentioned under the head of *collection of the land revenue*. Vol. II, p. 412. Those which prohibit, and render void, leases extending beyond ten years, or the term of the lessor's engagements with Government, are noticed in the sequel.

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hancement of their fixed rent by any proprietor or farmer of land, or by any officer of Government, during the continuance of their tenures, according to the terms and conditions thereof."

Further provisions in Regulation 47. 1803, Section 2, Clause 2.

Restriction against leases, beyond ten years, by landholders with whom a permanent settlement might be concluded.

REGULATION 47, 1803, (extended to the provinces ceded by DOULUT RAO and the PESHWA, by Section 29, Regulation 8, 1805,) besides a rule, which restricted the landholders with whom a permanent settlement might be formed, from disposing of a dependent talook, or other land tenure, at the same, or any jumma, for a term exceeding ten years, or letting any lands in farm, or granting pottahs to ryots, or other persons (with certain exceptions,) for a term exceeding ten years, similar to that already cited from Section 2, Regulation 44, 1793, for the lower provinces,* contained the following additional provisions. 1. "No zemindars, independent talookdars, or other actual proprietors of land, after having engaged for the triennial, quarternial, or other periodical assessment of their estate, nor any persons on their behalf, shall dispose of a dependent talook, or other land tenure of whatever denomination, to be held at the same or at any jumma, or shall fix, at any amount, the jumma of an existing dependent talook, or other land tenure, for a term extending beyond the term of their own existing engagements with Government, nor let any lands in farm, nor grant pottahs to ryots or other persons for the cultivation of lands, for a term extending beyond the term of their own lease from Government. This rule and prohibition shall be considered to be in force, until a permanent settlement shall be concluded, under the regulations abovementioned; and any lease or engagement, given or received, in opposition thereto, shall be void and of no effect, as far as regards the amount of rent thereby illegally stipulated, but without affecting any other rights which the parties respectively may possess, or to which they may be en-

Section 2, Clause 1.

Jumma of dependent talooks, or other land tenure, not to be fixed, nor farms or pottahs granted, for a term extending beyond the term of the engagements of proprietors of land with Government, until a permanent settlement shall be concluded.

* It was expressly declared in the Second Clause of Section 2, Regulation 47, 1803, that leases granted in opposition thereto, should be "null and void as far as respects the jumma or rent thereby illegally stipulated; but without affecting any other rights which the parties respectively may possess, or to which they may be entitled."

titled."

Section 6. Landholders and farmers restricted from demanding an increase of rent, except in certain cases.

titled." 2. *First.* "No zemindar, or other actual proprietor of land, or farmer of land, or any other person whatever, shall demand an increase of rent from any dependent talookdar, or other description of under-tenant of land dependent on him, although he should himself be subject to the payment of an increase of jumma to Government, excepting upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the under-tenant holds his tenure; or that the under-tenant, by receiving abatements from his jumma, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it." *Second.* "If in any instance it be proved, that a zemindar, or other actual proprietor of land, or farmer of land, has exacted more from an under-tenant than he is entitled to, the court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit to the party injured."

Penalty for proprietors or farmers making exactions from under-tenants.

Second Clause of Section 2, Regulation 47, 1803, rescinded by Section 2, Regulation 5, 1812.

And Section 3, of that regulation, in force throughout all the provinces.

THE Second Clause of Section 2, Regulation 47, 1803, by which the proprietors of land, in the ceded provinces, with whom a permanent settlement might be concluded, were restricted from granting leases beyond a period of ten years, has been rescinded by Section 2, Regulation 5, 1812; and Section 3, of the same regulation, whereby the landholders in all the provinces are declared "competent to grant leases to their dependent talookdars, under farmers, and ryots, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient, and most conducive to their respective interests," (under provisions, already cited, against arbitrary or indefinite cesses,) is declared to be "in force throughout the provinces immediately dependent on the presidency of Fort William." But the permanent settlement of the ceded and conquered provinces having been postponed, under orders from the Honorable Court of Directors, by the provisions of

But power of granting leases to undertenants, in the ceded and conquered provinces again limited by Sec-

of Regulations 9, and 10, 1812,* it became necessary (as before noticed relative to Cuttack) to limit in those provinces the general power of granting leases to under-tenants, which had been declared in Section 2, Regulation 5, 1812. Restrictions, corresponding in substance with the Second Clause of Section 2, Regulation 47, 1803, were accordingly re-enacted for the ceded and conquered provinces, by Sections 2, and 3, Regulation 14, 1812;† which are still in force; and direct, that no zemindar, or other proprietor of land in those provinces "shall grant leases, or fix the rent of any land tenure, for a term exceeding ten years; or if the term of his own engagement with Government be less than ten years, extending beyond such less term."

Sections 2, and 3, Regulation 14, 1812, in consequence of the permanent settlement being postponed in those provinces.

I SHALL conclude this division of the present section with the special provisions contained in Regulation 29, 1814, entitled *A Regulation for the settlement of certain mehals in the district of Beerbhoom, usually denominated the ghautwalee mehals.* Tenures of this description were mentioned generally in a note to the second volume of this Analysis,‡ as held at a low rent by ghautwals, or guards of passes. They exist to a considerable extent in all the hilly districts on the western frontier of Bengal; and appear, for the most part, to have originated in assignments of land for the protection of the ghauts and villages near the hills. There is however a material difference in the tenures of ghautwals. Those of Surhut and Deogur in the district of Beerbhoom, to whom the provisions of Regulation 29, 1814, immediately relate, have a defined and permanent interest in the lands which compose their respective mehals; and which consist of entire villages, or more extensive tracts of land;‖ whereas

Special provisions in Regulation 29, 1814, respecting ghautwalee mehals in the district of Beerbhoom.

Remarks on tenures of this description.

Distinction between the ghautwals of different districts.

* See vol. II, page 337.

† Before cited, at length, in pages 484, and 485.

‡ Vol. II, page 236.

‖ The following particulars relative to the ghautwals of pergunnah Surhut, situate in the North-western part of the Beerbhoom zemindarry and district, were reported to Government in a letter from the Board of Revenue, dated the 6th April 1813; and with a similar report from the acting magistrate of the zillah, (Mr. E. Morrieson,)

whereas the sirdar and inferior ghautwals, in the contiguous zemindary of Bishenpore, have small and specific portions of land,

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MORRIESON,) dated the 7th September 1813, may be considered to have led to the regulation subsequently enacted for the more complete protection and security of the ghautwals referred to. "This pergunnah, which is situated on the frontier of the district, was in the occupancy of the ancestors of the present ghautwals. About the Bengal year 1111, it was taken possession of by the ancestors of the present zemindar of Beerbhoom, and annexed to his zemindarry; but not being able to hold undisturbed possession of it, the parties came to an amicable adjustment; whereby half the pergunnah was relinquished as jageer to the ghautwals; and the other half became liable to assessment of revenue payable to the zemindar; but no separate demarcation, or allotment, of the jageer and malgoozarry lands, was ever made. The zemindar either let out the lands in farm, or held them khas, as he thought proper. From the records now for hearing, the zemindar appears to have had charge of the pergunnah from 1184 B. S. to 1197; with exception of two or three periods, when it was under the *khas* management of the collector. On the formation of the decennial settlement in 1790, (corresponding with 1197 B. S.) Mr. KEATING, then collector of Beerbhoom, submitted to the Board of Revenue whether the ghautwals might not be considered of the description of talookdars entitled to separation; and be permitted to enter into engagements for their lands respectively as proprietors of the soil. The question was referred to Government. It was determined (31st December 1790) "that the ghautwals were not entitled to separation, or to enter into engagements for the revenue as proprietors; but the collector was to hold the lands khas, receiving the revenue from the ghautwals." From that period (or rather from the close of the Bengal year 1198,) it would appear that the zemindar has been excluded from all management, or interference, with the lands in question; which have been let in farm by the collectors, from time to time, on leases of different periods to the ghautwals individually, for their respective mehals or villages, with exception to the year 1204, when the collector farmed certain villages of ANUNDNARAIN SING, ghautwal, to a person named DIGBEJOI SING. This gave rise to an action in the court against the collector and DIGBEJOI SING, which was decided on the 26th of December 1797, (or 1204-5) cancelling the engagements entered into by DIGBEJOI SING, on the grounds of the orders of Government of the 31st of December 1790. This decision was appealed from, but confirmed. From this time the settlement has been made with the ghautwals; and they have paid their revenue, either at the collector's office, or to a person on his part, independent of the zemindar. A settlement was made with them in the Bengal year 1216; and was renewed in 1217, for three years. This term has now expired with the Bengal year 1219. In all the official records the zemindar (now Rajah DAWAR ZEMAN KHAN) is recorded as proprietor of the pergunnah; but neither exercises, nor possesses, any authority in the executive management. He receives the difference between the ghautwalee and the sudder jumma, after deducting the charges of a tehsildarry establishment.

The amount of the ghautwalee jumma is - - -	rupees 20,581	2	18
The sudder jumma is - - - - - - - - - -	15,172	0	19
	5,409	1	19

Deduct

land, in different villages, assigned for the maintenance of themselves, and of the pykes and chowkeedars, acting under them, of a nature analogous to the *Chakeran* assignments of land to village watchmen in other districts. The ghautwalee tenure however, as ascertained from the result of inquiries made by the magistrates of zillahs Burdwan, Beerbhoom and the Jungle Mehals, and communicated to the court of Nizamut Adawlut, in the year 1816, differs essentially from the common Chakeran,* in two respects;—"*first*, that being expressly granted for purposes of police, at a low assessment, which has been allowed for, in adjusting the revenue payable by the landholders to Government, at the formation of the permanent settlement, the land is not liable to resumption, nor the assessment to be raised beyond the established rate, at the discretion of the landholders; *secondly*, that although the grant is not expressly hereditary, and the ghautwal is removal from his office, and the lands attached to it, for misconduct, it is the general usage, on the death of a ghautwal, who has faithfully executed the trust committed to him, to appoint his son, if competent, or some other fit person in his family, to succeed to the office."

But the ghautwallee tenure differs from the common Chakeran assignment of land in lieu of wages.

Not liable to be resumed, or the assessment to be raised, at the discretion of the zemindars and other superior landholders.

And customary succession in the family of a ghautwal who has executed his trust with fidelity.

The above discrimination between the *ghautwalee* tenure, which being an appropriation of land, at a low jumma, for a police

Above statement of the ghautwalee tenure taken.

Deduct charges of a tehsildarry establishment at rupees 93 3 per mensem, which if kept up, the whole year would be rupees - - - - - - - - - - - - -	1,142	4	0
Payable to the zemindar - - - - - - - - - - - - -	4,266	13	19

"Although the ghautwals, exclusive of the proceeds of some lakheraj lands, are declared not to be entitled to separation, nevertheless, under the orders of Government of the 31st of December 1790, before cited, "that the collector should receive the revenue from them," and the tenor of the decree before noticed, they are, to all intents and purposes, independent of the zemindar; and after such a lapse of time, as well as on grounds of policy, it would not perhaps be expedient to place them under his control. As the rajah however has now attained his majority, and has applied to have the exclusive management of the estate, it becomes necessary to form such an arrangement as will secure to the zemindar an equitable compensation; maintain the ghautwals in their rights; and ensure the punctual realization of the revenue."

* Noticed in vol. II, page 235.

establishment;

From an official letter written by order of the Nizamut Adawlut in 1816.

establishment, may be considered within the fourth clause of Section 3, Regulation 1, 1793;* and the common *Chakeran* assignments in lieu of wages to zemindarry servants, which have been annexed to the malgoozary lands, and declared responsible for the public assessment, by Section 41, Regulation 8, 1793;† is taken *verbatim* from a letter written by order of the Nizamut Adawlut to the Calcutta court of circuit on the 30th October 1816. It is probable that some specific provisions may hereafter be enacted for defining more exactly the rights of the ghautwals referred to. At present however those of zillah Beerbhoom only are included in the enactments of Regulation 29, 1814, to the following effect:—

Probability of some future legislative provisions to define the rights of the ghautwals in general.

But those of Beerbhoom only are included in enactments of Regulation 29, 1814.

Preamble to that regulation.

"Whereas the lands held by the class of persons denominated ghautwals, in the district of Beerbhoom, form a peculiar tenure, to which the provisions of the existing regulations are not expressly applicable: And whereas every ground exists to believe, that according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the zemindar of Beerbhoom, and to the performance of certain duties for the maintenance of the public peace, and support of the police: And whereas the rents, payable by those tenants, have been recently adjusted, after a full and minute enquiry made by the proper officers in the revenue department: And whereas it is essential to give stability to the arrangements now established among the ghautwals: the following rules have been adopted, to be in force, from the period of their promulgation, in the district of Beerbhoom." §. 2. "A settlement having lately been made, on the part of the Government, with the ghautwals in the district of Beerbhoom, it is hereby declared, that they, and their descendants in perpetuity, shall be maintained in possession of the lands, so long as they shall respectively pay the revenue at present assessed upon them; and that they shall not be liable to any enhancement

Section 2. The ghautwals in Beerbhoom, and their descendants in perpetuity, to be maintained in possession of their lands, and not liable to an enhancement of rent.

* See vol. II, page 199.

† Vol. II, page 235, and note.

of

of rent, so long as they shall punctually discharge the same, and fulfil the other obligations of their tenure." §. 3. "The Ghautwalee lands shall be considered, as at present, to form a part of the zemindary of Beerbhoom; but the rents of Ghautwals shall be paid direct to the assistant collector stationed at Soory, or to such other public officer as the Board of Revenue, with the sanction of the Governor General in Council, may direct to receive the rents." §. 4. "The difference between the amount of the revenue assessed on the Ghautwals, and the fixed assessment of revenue on this portion of the zemindary of Beerbhoom payable to Government, shall be paid to the zemindar of Beerbhoom, and his heirs and successors, in perpetuity." §. 5. "Should any of the Ghautwals, at any time, fail to discharge their stipulated rents, it shall be competent for the Governor General in Council to cause the Ghautwalee tenure of such defaulter to be sold by public sale, in satisfaction of the arrears due from him; in like manner, and under the same rules as land held immediately of Government; or to make over the tenure of such defaulter to any person whom the Governor General in Council may approve, on the condition of making good the arrear due; or to transfer it by grants, assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or to dispose of it in such other form and manner as shall be judged by the Governor General in Council proper. Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid, in conformity to the tenor of the preceding article, to the zemindar of Beerbhoom, his heirs and successors."

Section 3. The ghautwalee lands to form a part of the zemindary of Beerbhoom, and the rents how to be paid.

Section 4. Difference between the revenue assessed on ghautwals, and the assessment payable to Government, to be paid to the zemindar of Beerbhoom.

Section 5. On failure of the ghautwals to discharge their stipulated rents, their tenure how to be disposed of.

Any increase of revenue which may be obtained by such arrangement, to be paid to the zemindar of Beerbhoom.

2. *RECEIPT AND ENFORCEMENT OF RENTS.*

It being of matereal consequence to the protection of under-tenants from undue exactions, as well as for the proof of such, when made and complained of, that a written acknowledgment should be given for all sums paid by them, on account of their rents, it was provided by the First Clause of Section 63, Regulation

Regulation 8, 1793. Section 63. Clause 1. Landholders and their agents to give receipts for all sums received by them, and a receipt in full in discharge of obligations.

gulation 8, 1793, that "every proprietor of land, dependent talookdar, or farmer of land, of whatever description, and their agents of every gradation, receiving rents or revenues from dependent talookdars, under-farmers, ryots or others, are to give receipts for all sums received by them; and a receipt in full on the complete discharge of every obligation. Any person to whom a receipt may be refused, on his establishing the same in the Dewanny Adawlut of the zillah, shall be entitled to damages from the party who received his rent or revenue, and refused the receipt, equal to double the amount paid by him." To guard against the recurrence of a former oppressive practice, which exacted the rents of deserted ryots from the remaining ryots of the same village, it was further provided, by a second clause in the same section, that "in case any village, or lands, should be affected by inundation, or other calamity, causing the ryots to desert, it shall not be lawful for any proprietor of land, dependent talookdar, or farmer of land, of whatever description, or their agents, to demand the rents of the absconded ryots from those who may remain."*

Penalty for refusal of a receipt.

Clause 2. Rents of deserted ryots not to be levied from those who remain.

Before the year 1792, in the lower provinces, the nature and extent of the coercion which landholders and farmers of land might legally exercise over their under-farmers, ryots, and other tenants, to enforce payment of arrears of rent, were not defined by any regulation. In consequence, many landholders and farmers had recourse, under the sanction of former usage, to the most severe and oppressive means, not only to realize sums justly due to them, but frequently for purposes of extortion;† whilst others, doubtful

Preamble to Reg. 17. 1793. Coercion, which landholders and farmers might exercise over their tenants, not defined by any regulation till 1792. Consequences of this defect.

* The two clauses mentioned have not been expressly enacted for Benares, and the upper provinces. But the spirit of them (excepting the specific penalty for not giving receipts) is evidently applicable. Moreover, the landholders and sudder farmers, in all the provinces, are bound by their engagements to grant regular receipts for all sums paid by their under-tenants; and those of Benares "under the penalty of a fine of double the amount to be awarded to any ryot, who shall prove that he has been refused a receipt." See vol. II. page 277.

† An intelligent collector of the district of Midnapore, in a report to Government, dated 12th February 1802, observes:—"The ryots at present enjoy a degree of personal security which they never knew before; and this is certainly a most invaluable

doubtful what measures they were empowered to adopt, and apprehensive of subjecting themselves to a civil action, refrained from all compulsion, to enforce payment of their rents, and were often defrauded of arrears to which they were entitled. This defect in the regulations being injurious to both landlord and tenant, and it being essential to the punctual receipt of the rents payable to the landholders and farmers, as well as to the regular collection of the public revenue derivable therefrom, that landholders and farmers of land should, as in other countries, have the means of recovering arrears of rent, without the delay and expense of a law process in the courts of judicature; subject to such rules and restrictions as might be requisite to protect the ryots and other under-tenants from exaction and oppression; a regulation for this purpose was passed on the 20th July 1792;* and re-enacted, with amendments in Regulation 17, 1793; entitled *A regulation for empowering landholders and farmers of land to distrain and sell the personal property of under-farmers, ryots, and dependent talookdars, and (in certain specified cases) of their sureties, for arrears of rent and revenue; and for preventing landholders and farmers of land confining or inflicting corporal punishment on their under-farmers, ryots, and dependent talookdars, or their sureties, to enforce payment of arrears.* To prevent an abuse of the powers vested in the landholders and farmers, by this regulation, provisions were made in it for obliging the distrainer to withdraw his attachment of property, in the event of the alleged defaulter's contesting the demand, and engaging, under security, to try the justness of it, by a suit to

Reasons which led to the regulation passed on the 20th July 1792.

Re-enacted with amendments in Regulation 17, 1793.

Provisions for withdrawing attachment in certain cases.

valuable consequence of the present system. Formerly there was no such thing as collecting the revenues without personal chastisement. A whipper was considered a necessary part of a tehseeldar's establishment; and a whip might very properly have been represented as the symbol of his office. Nor could the revenues have been collected without it. In those days, sales of land, and distress of crops, were entirely unknown. Zemindars and ryots would not pay their revenues without some kind of coercion; and personal security was the only means of coercion that existed. It must be added, that the same collector thought the ryots too much exposed to injury by some of the provisions in Regulations 35, 1795, and 7, 1799, relative to distress for arrears of rent; and recommended a qualification of them, which has since, in substance, been adopted.

* See COLEBROOKE'S Digest, vol. 3. page 335.

be instituted within fifteen days in the zillah dewanny adawlut, as well as to pay the amount that might be eventually adjudged, with interest and costs. These provisions however were found to counteract the object of the regulation, by the delay often unavoidable in determining the suits instituted; and by the consequent opportunity afforded to defaulters, of protracting payment of sums demanded from them. A summary process was also found to be wanting for the speedy recovery of considerable arrears due from under-farmers in large estates; which, not being realizable by the prescribed rules for distress of personal property, could not be enforced without the delay of a regular suit in the civil courts; though the estate of the landholder, or sudder farmer, entitled to the arrear, was, at the same time, liable to be sold in satisfaction of the demands of Government. Regulation 35, 1795, *for better enabling individuals to recover arrears of rent*, was consequently enacted for the lower provinces, and re-enacted, with parts of Regulation 17, 1793, for Benares, by Regulation 45, 1795. The summary process established by the regulations for the recovery of arrears of rent, exceeding five hundred sicca rupees, not being found effectual, and some of the provisions for the recovery of smaller sums by distress, appearing insufficient for the purposes intended by them, additional rules were enacted, in the lower Provinces, by the first twenty Sections of Regulation 7, 1799, *for enabling proprietors and farmers of land to realize their rents with greater punctuality*; and extended to Benares, by Regulation 5, 1800. The whole of the rules in force were afterwards re-enacted, in Regulation 28, 1803, for the provinces ceded by the Newab Vizeer; and extended by Section 19, Regulation 8, 1805, to the provinces ceded by DOULUT RAO SENDHEA, and the PESHWA. The rules prescribed for Bengal, Behar, and Orissa, were likewise extended to Cuttack, under the general provisions of Regulation 12, 1805. But there being grounds for believing (as stated in the preamble to Regulation 5, 1812,) "that considerable abuses and oppression had been committed by zemindars, talookdars, and farmers of land in the exercise of the powers

Operation of these provisions.

And summary process required for recovery of considerable arrears not realizable by distress.

Regulation 35, 1795, enacted in consequence.

And extended to Benares, with part of Regulation 17, 1793, by Regulation 45, 1795.

Further rules found requisite, and enacted in Regulations 7, 1799, and 5, 1800.

Extended to upper provinces by Regulation 28, 1803, and Section 19, Regulation 8, 1805.

Also to Cuttack by Regulation 12, 1805.

Preamble to Reg. 5, 1812. Reasons for modifying powers vested in the landholders and farmers.

powers vested in them, with respect to the distress and sale of the property of their tenants, for the recovery of arrears of rent," provisions for staying the sale of distrained property, when the demand is contested, similar to those originally made by Regulation 17, 1793, (with a summary trial to obviate delay,) have been re-established by Sections 15 and 16, of Regulation 5, 1812; which Regulation also contains some additional rules for the security of tenants against unjust demands of rent; for the exemption of implements of husbandry and tools of artisans, as well as cattle employed in agriculture, from distress and sale; and for the appraisement of distrained property before it is sold. These rules, with the whole of those in force, under the several regulations referred to, will now be stated.

And provisions for this purpose in Regulation 5, 1812.

The whole of the rules in force will be now stated.

1. The following descriptions of persons are authorized to exercise the powers of distraining, stated in the succeeding rules, under the restrictions therein specified, viz.

What persons authorized to distrain.

First. Zemindars, independent talookdars, and other actual proprietors of land; putteedars, or other sharers in the property of land, whether distinct or common; dependent talookdars, or other dependent landholders; farmers of land, holding their farms immediately of Government; and under-farmers of land, of every description, whether holding their farms from proprietors of land, from dependent landholders, or from the farmers of Government.

Lower Provinces. Reg. 17, 1793, Sec. 2. Benares. Reg. 45, 1795, Sec. 2. Upper Provinces Reg. 28, 1803, Sec. 2.

Secondly. The lawful heirs and successors to the several persons mentioned in the preceding clause, who may be entitled to arrears of rent.

Reg. 17, 1793, Sec. 30. Reg. 45, 1795, Sec. 28. Reg. 28, 1803, Sec. 28.

Thirdly. The managers of estates of disqualified landholders; or of joint estates.

Ditto.

Fourthly. The naibs, gomastahs, and other agents employed by landholders, managers, and farmers of land, in the collection of their rents; to whom their constituents may delegate a power to

Reg. 7, 1799, Sec. 2, 18. Reg. 5, 1800, Sec. 2, 18.

Reg. 28, 1803, Sec. 2, 30.

distrain in their behalf, subject to their own responsibility, in addition to that of their agents, for any wilful deviation from the regulations, as hereafter specified.

Reg. 7. 1799, Sec. 19. Reg. 5, 1800, Sec. 5. Reg. 28, 1803, Sec. 36.

Fifthly. Collectors, or other public officers, holding lands in attachment for the purpose of adjusting the public assessment on them; or for any other purpose; or making a khas collection on the part of Government, where no settlement has been made with a proprietor or farmer; and the authorized agents of such public officers; provided they be commissioned and instructed to distrain for arrears of rent.

For what distress may be levied, and against whom. Reg. 17, 1798, Sec. 2 & 5, mod. by Reg. 7. 1799, Sec. 3. Reg. 45, 1795, § 2 & 5, mod. by Reg. 5, 1800, Sec. 3. Reg. 28, 1803, § 2 and 5.

Under tenants to be considered defaulters in any arrears of rent withheld beyond the day on which they became payable. For such arrears, not paid on demand, defaulters liable to distress: Tenant to give notice of distress to his surety.

2. *First.* Distress may be levied by the several persons above mentioned for arrears of rent, or revenue,* due from under-tenants and their sureties. "Under-tenants, of every description, are to be considered defaulters for any arrears of rent withheld beyond the day on which the same may have become payable, according to their kistbundies, or other engagements; or where there may be no written specification of the exact term of payment, beyond the period when the rent demandable from them may be payable, according to established local usage. For all such arrears, which may not be paid on demand, defaulters are declared liable to immediate distress, whether the amount shall have been demanded from their sureties, or otherwise. In instances wherein the distrainer may proceed to levy distress from an under-tenant, who has given security, without having previously demanded the arrear from the surety, it will be incumbent on the tenant to give notice of the distress to his own surety, so as to enable him to discharge the arrear before the sale of the property attached; or the distrainer, if he thinks proper, may give notice to the surety and require him to make payment of the arrear. The distrainer,

Or distrainer may give notice to surety, and require payment

* On the 21st February 1817, the Court of Sudder Dewanny Adawlut, in answer to a reference from the acting judge of Boglepore, informed him, that they considered the process of distress for rent to have been chiefly intended for enabling landholders and farmers to recover the rents of the current year; but not meant to restrict them from applying the same process to recover arrears of rent for a preceding year, if the party in arrear continue to be the under-tenant of the distrainer.

may

may also, at his option, distrain in the prescribed mode either the property of the defaulter, or his surety, or the property of both, so that the whole distress be not excessive in proportion to the arrear; but no distress shall be levied on the property of the surety, until the arrears shall have been ineffectually demanded from the defaulter, unless the latter shall have absconded, or be otherwise not forthcoming; in which case, and in the event of the surety's not discharging the amount due on demand, distress may be levied from his property for the recovery of it, in like manner as if the defaulter had been present, and served with the demand in the first instance."

rem him. Distrainer may also at his option distrain property of surety. Or the property of both the defaulter and his surety, so that the distress be not excessive. Provided the arrear be first demanded from the defaulter, if forthcoming.

Second. "Persons who tenant or under-farm lands in the name of their children, dependents, or others, or in the names of fictitious persons, and give themselves as the ostensible sureties for the performance of the agreement, but retain the actual management of the lands, and in fact are themselves the under-farmers, or ryots, of such lands, shall to all intents and purposes be considered as the under-farmers or ryots of such lands; and their property shall be liable to be distrained and sold for arrears, in the same manner as if the engagement for the lands had stood in their own names."

Persons who farm or tenant land in the names of others, to be considered the actual farmers or ryots of such land.

3. *First.* Persons empowered to recover arrears of rent, or revenue, by distress, may without previous notice to any court of justice, or any public officer, distrain, in the mode hereafter prescribed, the crops and products of the earth, of every description, and (with the exceptions mentioned in the next clause) all other personal property belonging to the dependent landholder, inferior putteedar, under-farmer, ryot, or other tenant, from whom the arrear may be due; whether found in the house, or on the premises of the defaulter, or in the house, or in the premises, of any other person; and to cause the said property to be sold, in the manner, and under the restrictions hereafter stated, for the discharge of the arrear due.

What property may be distrained.
Reg. 17, 1793. Sec. 2.
Reg. 45, 1795. Sec. 2.
Reg. 28, 1803. Sec. 2.

Second.

What property not to be distrained.
Reg. 17, 1793, Sec. 3.
Reg. 45, 1795, Sec. 3.
Reg. 28, 1803, Sec. 3
Reg. 5, 1812, Sec. 14.

Second. Persons vested with the power of distraint shall not distrain or sell the lands, houses, or other real property of the landholders, farmers, and tenants, whose personal property they are authorized to distrain; nor ploughs, or other instruments of husbandry, bullocks, and other cattle employed in agriculture; nor the tools of any artizan, tradesman, or labourer; nor the loom, thread, unwrought silk, or materials of manufacture, of any weaver or manufacturer; nor goods or advances belonging to the Company. All such distraints and sales are declared illegal and void. "The defaulter shall stand acquitted of the arrear for which the distress may be levied; and the property shall be restored to him, or the distrainer shall be compelled to make good to him the value of it, if it shall be personal property, and shall have been destroyed, damaged, or injured, or shall not be forthcoming; and the distrainer shall be further obliged to pay to him damages, adequate to the loss which he may prove to have sustained in consequence of such attachment or sale, with all costs of suit."

Provision respecting seed grains.
Reg. 17, 1793, Sec. 4.
Reg. 45, 1795, Sec. 4.
Reg. 28, 1803, Sec. 4.

Third. The seed grain of ryots, and other under-tenants shall not be distrained for arrears, provided the defaulter shall possess, and the distrainer shall have it in his power to attach, other grain, or property, sufficient for the discharge of the arrear. "Distrainers are enjoined to attend strictly to this rule; and every deviation from it shall be punished by an award to the party aggrieved of damages adequate to the injury he may have sustained, with all costs of suit."

Distress to be proportionate to arrear.
Reg. 17, 1793, Sec. 16.
Reg. 45, 1795, Sec. 14.
Reg. 28, 1803, Sec. 14.
Penalty for excessive distress.

4. "The distress levied shall not be excessive, or in other words, the property seized shall be, as nearly as possible, proportionate to the amount of the arrear. If any person vested with the power of distraint shall attach any property, the value of which shall be disproportionate to the arrear, and it shall be proved that he could have seized other property of less value, and which would have been sufficient for the liquidation of such arrear, the Court of Dewanny Adawlut shall award to the owner damages according to the circumstances of the case, with all costs of suit."

5.

5. "If any person, vested with the power of distraint, shall attach, or cause to be sold, the property of any under-farmer, ryot, or dependent zemindar, or putteedar, for arrears of rent or revenue, and it shall appear upon trial that no arrear was due, the distrainer shall be compelled to restore the property to the owner; or to make good to him the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming; and to pay to him, as damages, a sum adequate to the value of such property, and all costs of suit."

Penalty for distraining property if no arrear be due.
Reg. 17, 1793, Sec. 6
Reg. 45, 1795, Sec. 6.
Reg. 28, 1803, Sec. 6.

6. *First.* "If the defaulter, in the presence of two creditable witnesses, shall tender the arrears demanded of him, to the person deputed to attach his property, such person shall receive the arrears, and shall not proceed to the attachment."

Attachment not to take place if the arrear be tendered.
Reg. 17, 1793, Sec. 7.
Reg. 45, 1795, Sec. 7.
Reg. 28, 1803, Sec. 7.

Second. "If the defaulter shall tender payment of the arrear demanded of him in the presence of two creditable witnesses, after his property shall have been attached, and prior to the day fixed for its being put up to sale, and also of the necessary expenses attending the attachment, the distrainer shall receive the amount of such arrear and expenses, immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute arising respecting the expenses of the attachment, it shall be determined by the cauzy of the pergunnah in which the distress may have been levied, or other officer authorized to sell distrained property. The Courts of Dewanny Adawlut, upon complaint made to them, are to punish any distrainer who may act contrary to this regulation, by awarding against him, in favour of the party injured, damages according to the circumstances of the case, with all costs of suit."

Reg. 17, 1793, Sec. 11.
Reg. 45, 1795, Sec. 9.
Reg. 28, 1803, Sec. 9.
Attachment to be withdrawn, if the defaulter tender the arrear, and expenses of the attachment, previous to the day of sale.

7. Persons authorized to distrain for arrears of rent, and desirous of exercising the powers vested in them for this purpose, "shall, either previously, or at the time of distress, serve the tenant from whom the arrear may be due, with a written demand for the

Tenant to be served with a written demand and account, previous to, or at time of, distress.
Reg. 5, 1812, Sec. 13.

amount of it, accompanied with a *jumma wasil bakee*, exhibiting the grounds on which the demand is so made; and no process for the distress and sale of property, on account for arrears of rent, shall be deemed legal and valid, unless the rule here prescribed have been duly observed. In all practicable cases, the prescribed demand and *jumma wasil bakee* account, shall be served personally on the tenant; but if he abscond, or conceal himself, so that they cannot be served personally upon him, they shall be affixed at his usual place of residence; which latter process shall, in such case, be deemed and taken to be a sufficient service of the demand and account in question."

Writing to be furnished to persons deputed to distrain; and such persons how to proceed on their ataching property, Reg. 17, 1793, Sec. 8, Mod. by Reg. 35, 1795, Sec. 2, 3; and Reg. 7, 1799, Sec. 4. Reg. 45, 1794, Sec. 8, mod. by Reg. 5, 1800, Sec. 4. Reg 28, 1803, Sec. 2.

8. DISTRAINERS shall also "deliver to the person whom they may depute to attach the property of a defaulter, a writing under their signature, specifying the amount of the arrear for which the attachment may be issued, and the date on which such arrear became due. The person deputed shall produce this writing, as his authority for making the attachment; and on the day on which he may attach the property, shall deliver a copy of it to the stated defaulter, endorsing thereon a list or inventory of the property attached, and the name of the place where it may be lodged or kept; with a notice setting forth the amount of the arrear due, and stating the intention of the distrainer to bring the attached property to immediate public sale for the discharge of it, unless the amount and expenses of the attachment be previously paid. If the defaulter shall be absent, a copy of the above writing, with the prescribed endorsement, shall be fixed up, or left, at his usual place of residence, before the expiration of the third day, calculating from the day of the attachment. If any person, vested with the power of distraint, shall cause property to be attached, without furnishing the agent whom he may employ for that purpose with the writing above directed; or if such agent shall be furnished with the writing prescribed, and shall omit to deliver a copy of it, with the required endorsement, to the defaulter, or in the event of his absence, to leave such copy at his usual place of residence within

within the period limited; the distrainer shall not be entitled to recover the arrear for which the distress may have been levied; and he shall be compelled to restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay all costs of suit."

9. If the defaulter, on receiving the notice directed in the preceding rule, shall neglect to pay the amount due from him; or to give such assurance of early payment as may be satisfactory to the distrainer, (or his agent;) and shall also omit to enter into a bond to try the justice of the demand, (as hereafter provided for,) by a suit in the Dewanny Adawlut; or if the defaulter shall have absconded, or be otherwise absent, so that the notice cannot be served on him; the distrainer (or his agent) is to transmit an inventory of such part of the attached property as can be brought to immediate sale, to the nearest commissioner empowered to sell distrained property; with a written request, that he will cause the same to be publicly sold for the discharge of the arrear due; the amount of which is also to be specified in the application, together with the place where the property may be in attachment, and (if it be the intention of the distrainer to remove it, under the discretion vested in him,) the place to which it is intended to remove it. The commissioner, on receipt of such application, is to proceed as directed in the sequel.

Reg. 7, 1799, Sec. 4. Reg. 5, 1800, Sec. 4. Reg. 28, 1803, Sec. 8. What to be done if the defaulter neglect to pay on the above notice.

10. *First.* "Distrainers shall not drive or convey distrained cattle, or other property, out of the limits of the pergunnah in which it may have been attached. The distrainer shall either leave the property upon the premises, in the charge of any person he may think proper; or drive or convey it with due care to a proper place, as near as possible to the premises within the limits of the pergunnah." *Second.* "Distrainers shall not work the bullocks or cattle, or make use of the goods or effects distrained. They shall provide the necessary food for the cattle or live stock; the expense attending which shall be paid by the owner, upon his redeeming

Distrained property where to be kept, and how to be taken care of. Reg 17, 1793, Sec. 12, 13, 14, 15. Reg. 45, 1795. Sec. 10, 11, 12 13. Reg. 28, 1803, Sec. 10, 11, 12, 13.

redeeming the property, or from the proceeds of the sale, in the event of its being sold." *Third* "Distrainers, who shall attach the crops or any ungathered products of the earth belonging to their under-farmers, ryots, or putteedars, paying revenue through them, shall cause such crops or products to be reaped or gathered in due season, and store the same in proper houses, barns, or granaries, upon the premises; or, if there shall be no such places on the premises, in any barn or proper place which can be procured, as near thereto as possible, within the limits of the pergunnah. The expence of reaping, or gathering, and storing such crops, or products, shall be paid by the owner, upon his redeeming the property, or from the proceeds of the sale, in the event of its being sold." *Fourth.* "If property distrained shall be stolen, or lost, or be damaged, injured, or destroyed, by the weather or otherwise, whilst in the possession of the distrainer, owing to his not having taken the necessary precautions for the due keeping and preservation of it, he shall make good the loss or damage to the owner."

Attachments of property to be made within sun-rise and sun set. Reg. 17, 1793, Sec. 17. Reg. 45, 1795, Sec. 15. Reg. 28, 1803, Sec. 15.

11. "All attachments shall be made after sun-rise, and before sun-set. If any person vested with the power of distraint shall seize, or attempt to seize, the property of any defaulter after sun-set and before sun-rise, for the discharge of arrears of rent or revenue, such distrainer shall not be entitled to recover the arrear; and if the property shall have been attached, shall be compelled to restore it to the defaulter; or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming; with all costs of suit."

Penalty for fraudulent transfers of property to prevent attachments. Reg. 17, 1793, Sec. 18. Reg. 45, 1795, Sec. 16. Reg. 28, 1803, Sec. 16.

12. If any dependent landholder, putteedar, under-farmer, or ryot, "shall make a fraudulent conveyance or transfer of his property, to prevent the attachment of it for arrears, the Court of Dewanny Adawlut, upon proof thereof being made before it, shall cause the property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance shall have been made, to pay to the distrainer damages adequate to the value of one half of the property, with costs of suit."

13.

13. *First.* If any dependent landholder, putteedar, under-farmer, or ryot, "shall resist the attachment of his property; or shall forcibly or clandestinely take it away after it shall have been attached; the court of Dewanny Adawlut shall cause him, and all persons who may be proved to have been his aiders or abettors, to be imprisoned in the jail until he shall restore the property to the distrainer; or the arrear shall have been liquidated by the distraint and sale of other property, or otherwise discharged, with the expences attending the attachment, and costs of suit." *Second.* "In addition to the penalties provided by the above clause, it is declared, that if any under-tenant, of whatever description, shall resist, or cause to be resisted, the attachment of his property for arrears of rent in the mode prescribed by the regulations, so as to prevent the attachment from taking place; or shall forcibly or clandestinely take away such property after it shall have been attached; such offender shall, on proof before the Dewanny Adawlut, be made liable to damages to the distrainer, equal to twice the amount of the property rescued from attachment; and the property so taken away may be re-attached by the distrainer, wherever it may be found. The offender, and all persons concerned with him in resisting the attachment, are moreover declared liable to be apprehended, and prosecuted before the criminal courts for any breach of the peace committed in such resistance to the attachment; and the police officers, on information thereof,* are immediately to repair to the spot, and to take all proper measures, under the regulations, as well to apprehend and to send to the magistrate any persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them." *Third.* "If any person, not being the owner, shall be convicted of forcibly or clandestinely taking away property that has been distrained, the court of Dewanny Adawlut, upon proof

Penalties for resistance to attachments; or removal of property after it has been attached.
Reg. 17, 1793. Sec. 19, 20.
Reg. 45, 1795. Sec. 17, 18.
Reg. 7, 1799. Sec. 9
Reg. 5, 1800. Sec. 9.
Reg. 28, 1813. Sec. 17, 18.
Reg. 3, 1812. Sec. 8.

* This information must be on oath, under a provision in Section 8, Regulation 3, 1812, which directs.—"That no aid shall be furnished by darogahs of police for the distress and sale of property for the recovery of arrears of rent, unless oath be made before them, that actual resistance has been made to the distrainer in the exercise of the legal power vested in him with respect to these points."

thereof being made before it, shall cause such person or persons to be imprisoned until they restore the property, or make good the value of it to the distrainer; and pay to him as damages a sum equal to the value of such property, and all costs of suit."

Persons not responsible for arrears, and claiming property distrained and sold, how to proceed for recovery of the value of it, with costs and damages.
Reg. 7, 1799, Sec. 9.
Reg. 5, 1800, Sec. 9.
Reg. 28, 1803, Sec. 17.

14. "If any person, not being the defaulter or responsible for him, claim as his right the property distrained, and the distrainer shall notwithstanding cause the same to be sold; the claimant, on proof of his right in the Dewanny Adawlut, and in the event of the distrainer being unable to prove that he was responsible for the arrear, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with all costs and damages, according to the circumstances of the case. But no claim to crops upon the ground, or to any gathered product of the ground, attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent, due for the ground upon which such crop or product may have been grown; it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him, for the rent of the land in the first instance; and in default of his rent being paid as engaged for, (or determinable by local rates and usage where there may be no specific engagement,) to distrain and sell such part of the product as may be necessary to make good the arrear due to him."

What places distrainers may and may not force open. And assistance to be given by police officers.
Reg. 7, 1793, Sec. 21.
Reg 45, 1795, Sec. 19.
Reg. 7, 1799, Sec. 10, 11.
Reg 5, 1800, Sec. 10, 11.
Reg. 28, 1803, Sec. 19.
Reg. 3, 1812, Sec. 2.

15. *First.* "Distrainers are empowered to force open any stable, cow-house, barn, golah, granary, or other building, and to enter any dwelling-house, the outer door of which may be open, (excepting the apartments in such dwelling-house which may be appropriated for the zenana or residence of women,) and to break open the door of any room in such dwelling-house, for the purpose of attaching any property belonging to a defaulter which may be lodged therein. But if any person shall enter a dwelling house, or break open any stable, cow-house, barn, golah, grana-

ry,

ry, or other building, not occupied by or in the possession of the defaulter, to distrain property belonging to him, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor, for entering such house, or breaking open such stable, or other building; and the court shall award to him damages according to the circumstances of the case, with all costs of suit." *Second.* "When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, he is at liberty to represent the same to the police officer, within whose jurisdiction the house may be situated; and on such representation, the latter is to send an officer to the spot, in the presence of whom the distrainer is authorized to force open the outer door of the dwelling-house, in which he may have reason to suppose the defaulter's property to have been lodged; in like manner as he is above authorized to break open the door of any room within a dwelling house, except the zenana. He may also, in the presence of such officer, after due notice given for the removal of any women within the zenana, and after furnishing means for their removal in a suitable manner, if they be women of rank, who according to the custom of the country cannot appear in public, enter the zenana apartments for the purpose of attaching any of the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments; after which they are to be left free to the former occupants; and nothing in this section is to be understood to authorize any distrainer, or his agent, to force open the outer door of a dwelling house, or to enter the apartments of women, which by the usage of the country are considered private, in any other mode than that herein prescribed; a wilful deviation from which will subject the offender to heavy damages, besides forfeiture of the arrear of rent, on account of which the distress may be levied." *Third.* "It was provided by Section 11, Regulation

lation 7, 1799 (re-enacted for Benares, in Section 11, Regulation 5, 1800; and for the upper Provinces, in the Third Clause of Section 19, Regulation 28, 1803;) that "in all cases wherein persons authorized to distrain property for arrears of rent, may apply to the police officer of the jurisdiction to depute an officer to be present at the time of making the attachment, with a view to prevent resistance or other breach of the peace, the police officer shall, as far as may be in his power, immediately comply with such applications; and the officers so deputed, shall use every means in their power to prevent resistance or other breach of the peace in such cases: they shall also give due attention to the whole conduct and proceeding of the distrainer, so as to be able to give evidence thereon, if afterwards required, either before the judge or magistrate." But the object of this provision having been misunderstood or misapplied, it was enacted in Section 8, Regulation 3, 1812,* "that no aid shall be furnished by darogahs of police for the distress and sale of property for the recovery of arrears of rent, unless oath be made before them that actual resistance has been made to the distrainer in the exercise of the legal power vested in him with respect to these points. In order likewise to prevent the burkundazes from being withdrawn, on occasions of that nature, from the tannahs, and from the discharge of their general duties, muzkoory peons, to be selected by the darogahs, and paid by the distrainers at the established rate of tulbana, shall be employed in the performance of the service in question."

Provision for withdrawing attachment, if a tenant, who has

16. *First.* If the dependent landholder, under-farmer, ryot, or other tenant, against whose property an attachment for arrears

* The section referred to, of Regulation 3, 1812, notices *Section* 9, *Regulation* 7, 1799; *Section* 9, *Regulation* 5, 1800; *and Section* 17, *Regutation* 28, 1803; as containing former rules, "respecting the aid which should be furnished by the officers of police to distrainers:" and it might be inferred, therefore, that these were the rules intended to be modified. But on a reference to Government by the court of Sudder Dewanny Adawlut on this point, it was explained, on the 5th July 1816, that the above sections "were inadvertently referred to in Section 8, Regulation 3, 1812, as containing the provision intended to be modified by that section; instead of Section 11, Regulation 7, 1799; Section 11, Regulation 5, 1800; and the Third Clause of Section 19, Regulation 28, 1803."

may

may have been issued, "shall not have given security for the payment of his rent or revenue; and such tenant shall dispute the justness of the demand; and shall within five days, reckoning from the day following the attachment, or if the property attached consist of crops, or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, enter into a bond before the judge or collector of the zillah, the cauzy of the pergunnah, the commissioner, or other person vested with power to sell distrained property, or before the distrainer himself, with good security, binding himself to institute a suit in the Dewanny Adawlut of the zillah, within fifteen days from the date of such bond, for the trial of the demand, and to pay whatever sum may be adjudged to be due from him, with interest upon it at the rate of twelve per cent per annum, to be calculated from the date on which the arrear, that may be awarded, became payable, to the date of the decree, with all costs of suit; the distrainer shall immediately withdraw the attachment, and restore the property to the defaulter. If the stated defaulter shall fail to execute the bond within the period prescribed, the distrainer shall be at liberty to keep the property under attachment, and to cause it to be sold in the manner hereafter directed, unless the arrear, with the expenses of the attachment, shall be discharged previously to the day of sale. If the defaulter shall execute the bond, but omit to institute the suit in the dewanny adawlut, within the time prescribed, the distrainer shall demand payment of the arrear from the surety, and in the event of his not discharging the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, (excepting always the articles not subject to distress), and to cause it to be sold, unless the arrear and the expenses of the attachment shall be discharged previously to the day of sale." *Second.* "If the attachment for arrears have been issued against any tenant, who may have given security for the payment of his rent or revenue; and such tenant shall dispute the justness of the demand;

given security for his rent, dispute the justness of the demand upon him; and within five days execute a bond, with security, to institute a suit in the dewanny adawlut. Reg. 5. 1812. Sec. 15.

Or, if the tenant have given security for his rent, and dispute the justness of the demand upon him. Reg. 5. 1812. Sec. 16.

and the surety within five days, reckoning from the day following the day of the attachment, or if the property attached shall consist of crops or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, shall deliver a writing, attested by two witnesses, to the judge of the dewanny adawlut, the collector of the district, the cauzy of the pergunnah, the commissioner or other person vested with power to sell distrained property, or to the distrainer himself, engaging that either he or the stated defaulter will institute a suit in the dewanny adawlut, within fifteen days from the date of such writing, to try the demand, and to pay the amount that may be adjudged against them, with interest upon it at the rate of twelve per cent per annum, to be calculated from the date on which the arrear that may be awarded, became payable to the date of the decree, with all costs of suit; the distrainer shall immediately withdraw the attachment. If the surety shall fail to execute such writing within the prescribed period, the distrainer shall continue the property under attachment, and cause it to be sold in the manner hereafter directed; unless the arrear and the expences attending the attachment shall be discharged previously to the day of sale. If the surety shall execute the writing, but fail to have the suit instituted, either in his own name, or that of the defaulter, within the abovementioned period of fifteen days, the distrainer shall demand payment of the arrears from the surety, and in the event of his omitting to discharge the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, (excepting always the articles not subject to distress), and to cause it to be sold in the manner hereafter directed; unless the arrears, and the expense attending the attachment, shall be discharged before the day of sale. If the surety of the stated defaulter shall refuse or omit to enter into the writing required, or if he shall happen to be at a distance, so as to render it impossible for him to execute such writing within the prescribed time, and

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such defauter, in either of these cases, shall give the security required from the defaulters specified in the preceding clause, the distrainer shall withdraw the attachment; and the rules contained in the foregoing clause shall in every respect be considered applicable to the parties concerned." *Third.* "Should any ryot, farmer, or dependent landholder, whose property may have been distrained, be unable to give security to the amount of the demand, together with interest upon it, at the rate of one rupee per measem, with costs of suit and expenses of attachment, he will of course be at liberty to institute a suit against the distrainer in the dewanny adawlut, to try the demand, and for the recovery of damages on account of any injury which he may have sustained by the illicit sale of his property."

Persons unable to give security may sue distrainer for damages sustained by an illicit sale.
Reg. 5, 1812, Sec. 17.

17. *First.* If the tenant whose property has been attached for an arrear of rent, shall not deny the justness of the demand, and enter into a bond, with or without security, as required by the preceding section, within the period therein stated; "after the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place; or if the property attached shall consist of crops, or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored, the distrainer shall apply (as directed in the ninth rule) to the nearest commissioner for the sale of distrained property, to have the same appraised and sold. Upon the receipt of such application, the commissioner shall proceed as follow:—He shall fix up on the outer door of his own house, and at the place at which he may determine to dispose of the property, a list of the property attached, with a notice, which shall specify—*First*, the place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest gunge, bazar, or haut, or any place of public resort, where the commissioner

At what time application to be made to the commissioner for sale of distrained property, as directed in the 9th rule; and commissioner how to proceed for sale of the property, after advertisement and appraisement.
Reg. 35, 1795, Sec. 5.
Reg. 45. 1795, Sec. 20.
Reg. 7, 1799, Sec. 4.
Reg. 5, 1800, Sec. 4
Reg. 28, 1803, Sec. 20.
Reg. 5, 1812, Sec. 18, 19.

oner may be of opinion it is likely to sell to the best advantage: *Secondly*, the day on which it is to be sold; which shall be as early a day as may be compatible with a due observance of the other directions contained in this rule: *Thirdly*, the time of the day when the sale is to be made, which shall be during the hours of business, when the greatest number of people may be supposed to assemble. The publication of the intended sale shall also be made by beat of drum; on one market day, at the least, before the market day, on which the sale shall take place; as well as on the morning of the day of the sale. The same principle is to be observed with respect to the sale of ungathered products, after the distrainer shall have gathered, and stored them, and which are not to be sold until publication shall have been made as above directed." *Second.* "Whenever property shall have been distrained with a view to the sale of it, for the recovery of arrears of rent, it shall be appraised previously to such sale, by persons conversant with the purchase and sale of articles of the quality and description of those so distrained, and a certificate of the appraisement shall be furnished by the appraisers under their signatures, which shall be communicated to the tenant at least three days before the sale. The commissioner shall nominate two creditable persons, competent by their profession, trade, or occupation, to appraise the property. The persons so appointed shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing, at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgement. The commissioner shall affix his seal to the paper of appraisement, and cause it to be stuck up on the outer door of his own house, and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to bid; unless it shall consist of grain or other products of the earth, the removal of which would be at-

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tended with considerable expense, in which case, samples only, indiscriminately taken from each article, shall be brought to the place of sale, and exposed for the purpose abovementioned. The property shall be put up to sale in one lot, or in two or more lots, as the officer may think advisable. The property shall be disposed of for the highest price that may be offered for it. But if, at the time of sale, a price shall not be offered for the distrained property equal to its appraised value, the sale shall be postponed until the ensuing market day; when the property shall be actually sold, whatever price (not less than the amount bidden on the first day of sale) may be offered for it." *Third.* "If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear, and the expenses attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter; and to cause it to be sold to make good the deficiency. The commissioner is, in every case, to examine the defaulter's statement of the expenses consequent to the attachment and sale of the property; and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint shall sell or dispose of property, which he may have attached for arrears of rent or revenue, in any other mode than that prescribed in this rule, he shall forfeit the arrear for which the distress may be levied, to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit."

Commission to be drawn by officers authorized to sell distrained property, when the sale may take place.
Reg 7, 1799. Sec. 3.
Reg. 5, 1800. Sec. 5.
Reg 28, 1803. Sec. 20.

18. *First.* "As a compensation to the commissioners empowered to dispose of property under distraint, both for their personal trouble, and for the expense they may incur in publishing and making such sales, as well as in causing the attached property to be appraised as directed, they shall draw a commission of one anna in the rupee, on the amount sales of the property sold by them; to be deducted from the proceeds, and charged to the account of

the defaulter, with the other expenses attending the attachment. But no such commission shall be drawn, nor any charge made to the defaulter, beyond the expenses actually and necessarily incurred, in the event of the sale being stopped by his discharge of the arrear due from him, or otherwise. It is expected that this allowance to the officers entrusted with the sale of distrained property will ensure the faithful discharge of the trust reposed in them; and any collusion with the defaulter, distrainer, or purchaser, or other misconduct in the execution of the duty committed to them, will render them liable to immediate dismission from their offices, in the mode provided by the regulations; besides subjecting them to the other penalties therein specified, and full damages to the party injured." *Second.* "The commissioner is to be careful to prevent any unfair practices, either in the appraisement, or sale of property. Upon proof being made before the court of Dewanny Adawlut of the zillah, of his conniving at any such practices, the court shall cause him to make good any loss or injury that the defaulter may have thereby sustained, with costs of suit; and shall immediately report the circumstances of the case to the Sudder Dewanny Adawlut, who, provided there shall appear to be sufficient reason for so doing, shall dismiss such commissioner from his office."

Penalty for connivance at unfair practices by the commissioner.
Reg. 17, 1793, Sec. 23.
Reg. 45, 1795, Sec. 21.
Reg. 28, 1803, Sec. 22.

19. *First.* "The distrainer, the commissioner, and the appraisers, are prohibited from purchasing, directly or indirectly, any part of the property. Any commissioner or appraiser, offending against this prohibition, shall be compelled to restore the property to the defaulter; or the full value of it in the event of its being injured, damaged, destroyed, or not forthcoming; and shall forfeit the purchase money, which shall be appropriated to the liquidation of the arrear; and pay all costs of suit; and the court shall report the circumstances to the Sudder Dewanny Adawlut; who, if there shall appear to be sufficient ground for so doing, shall dismiss such commissioner from his office. Distrainers, acting contrary to the prohibition contained in this section, shall be compelled to restore the

Distrainers, commissioners, appraisers, and defaulters, prohibited from purchasing the property.
Reg. 17, 1793, Sec. 24, 25.
Reg. 45, 1795, Sec. 22, 23.
Reg. 28, 1803, Sec. 22, 23.

the property to the defaulter; or the full value of it, if it shall have been injured, damaged, or destroyed, or shall not be forthcoming; and shall likewise forfeit to him the arrear for which the property may have been attached; and pay all costs of suit."

Second. "Neither the defaulter, nor any person on his behalf, shall be permitted to bid for, or purchase, the property."

20. "The property shall be paid for in ready money, at the time of the sale; and the purchaser shall not be permitted to carry away any part of the property until it has been paid for. Should the purchaser fail in the payment of the whole, or part of the purchase money, within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the commissioner, on such day as he shall fix, for the best price that may be offered for it. The first purchaser shall forfeit to the distrainer ten per cent on the amount of the price at which he shall have purchased the property so resold; and make good to him any loss that may arise, as well as the expences that may be incurred on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter."

Rule for payment of purchase money for distrained property.
Reg. 35, 1795, Sec. 7.
Reg. 45, 1795, Sec. 24.
Reg 28, 1803, Sec. 24.

21. *First.* The native commissioners for the trial of civil suits, and the tehseeldars appointed by the collectors for the collection of the public revenue, are to be considered commissioners for the sale of distrained property, by virtue of their offices of commissioners for civil suits, and tehseeldars, so long as they may continue to hold such offices; and any separate commissions to them for this purpose will not be requisite; but in common with other commissioners for the sale of distrained property, they are at all times to furnish any reports or other information that may be required from them by the zillah judges.

What persons empowered to act as commissioners for the sale of distrained property.
Reg. 35, 1795, Sec 8.
Reg. 45, 1795, Sec. 27.
Reg. 7, 1799, Sec. 6, 7, 8.
Reg. 5, 1800, Sec. 6, 7, 8.
Reg. 28, 1803, Sec. 27.

Second. The zillah and city judges are empowered to appoint as many other commissioners for the sale of distrained property,

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in their respective jurisdictions, as may be requisite for facilitating the sale of such property. It is expected that the judges will pay due regard to the character and qualifications of all persons whom they may appoint under this regulation; and they are to furnish the commissioners, so appointed by them, with commissions (sunnuds) under their official seals and signatures, in the following form:—

"I, A. B. judge of the Dewanny Adawlut of the zillah (or city) of ———, in virtue of the powers vested in me by regulation ——, appoint you ——— commissioner for the sale of property distrained on account of arrears of rent. In pursuance of the above regulation you are to reside at ——— in pergunnah ———; and are to exercise the authority vested in you by the above regulation, or by any other regulations that may be hereafter transmitted to you for your guidance, in strict canformity thereto; and are to keep a regular and complete record of your proceedings, to be produced when called for."

Third. No person receiving a commission under the preceding clause "is to be deprived of it, whilst he may reside on the spot, without sufficient reason assigned to the satisfaction of the court of Sudder Dewanny Adawlut, to whom the zillah and city judges are to report all appointments made, and commisssions issued by them."

Fourth. "No person vested with the power of disposing of distrained property, shall sell property that may have been distrained for arrears due to himself. Persons of this description, having occasion to levy arrears by distress, are to apply to some other person duly empowered for the sale of the property."

Rule to be observed when the tenant, whose property is distrained, may be employed in the Company's investment or manufacture of salt.
Reg. 17, 1798. Sec. 31.

22. When the defaulting tenant, whose property is distrained for an arrear of rent, may be employed in the provision of the Company's investment, or the manufacture of salt (in the lower provinces), the distrainer is required to give notice in writing, as soon as possible after making the attachment, to the commercial resident,

resident, or salt agent, in whose division the defaulter is employed, or to the native superintendent of the factory, or salt chokey, to which the defaulter may be attached; and in such cases the property of the defaulter is not to be sold until a sufficient time has been given to enable the Company's Officers to satisfy the demand before the day of sale.*

Reg. 7, 1799. Sec. 4.

23. *First.* If any gomastah, agent, servant, or officer, of any person vested with the power of distraint, shall attach, or cause to be sold, the property of any under-farmer, ryot or dependent landholder, or putteedar, or their sureties, or do any act in the attachment or sale of it, contrary to the prescribed rules; the party aggrieved shall have his remedy against the principal of the offender for such illegal attachment, sale or act, whether the same took place, or was done, by the orders, or with the knowledge of such principal, or not. Nothing however contained in this clause shall subject a distrainer to imprisonment, in the event of any person, deputed by him to attach property, entering the zenana or apartments of women, or breaking open a dwelling-house in opposition to the 15th rule; unless it shall be proved, that such acts were done by the order, or with the consent or knowledge of, such distrainer.

Principals how far responsible for the acts of their agents. And what satisfaction to be made when the deviation from prescribed rules may not be wilful.
Reg 17, 1793. Sec. 22.
Reg. 45, 1795. Sec. 29.
Reg. 7, 1799. Sec. 2.
Reg. 5, 1800. Sec. 9.
Reg. 28, 1803. Sec. 2, 29.

Second. But neither the landholders and farmers themselves, nor their agents, are to be made liable to the penalties prescribed for a deviation from any part of the stated rules, relative to the distraining for land rents, "unless such deviation shall clearly appear to have been wilful and intentional; or to have proceeded from gross neglect, or inattention to the rules prescribed for their guidance. Where no such wilful deviation, or gross neglect, shall appear, satisfaction to the party aggrieved, for the actual damage sustained by him from the prescribed process not having been strictly adhered to, shall alone be adjudged against the distrainer; nor

* See further provisions respecting persons employed in the Company's investment, or the manufacture of salt, in the rules concerning such persons, stated in the next part of this Analysis.

shall any judgment be given for such damages, if the distrainer can shew that he tendered sufficient indemnification to the party injured, as soon as the irregularity in his proceedings was discovered, or at any time before the action for damages was brought against him, and that such tender was refused."

Special provision for Betay tenures in Benares. Reg. 45, 1795, Sec. 30.

24. In the rules for Benares, it is specially provided, that nothing contained in them "shall be construed to prohibit persons entitled to distrain, from attaching the standing crops of the under-ryots who cultivate on the betay tenure, and appropriating the moiety in value or kind, or such other proportion thereof as they may be entitled to, under the rules contained in Regulation 2, 1795; leaving to ryots who may deem themselves aggrieved by any act of the landholder, or superior renter, exercising this right, their remedy by application to the adawlut."

General provisions for suits in the civil courts, to be tried summarily; and referred to the collectors for adjustment and report. Reg. 17, 1793, Sec. 33, 34. Reg. 45, 1795, Sec. 31, 32. Reg. 5, 1812, Sec. 20, 21, 22, 23.

25. *First.* It is also generally provided, that nothing contained in the stated rules, for levying arrears of rent or revenue by distress, shall be construed to prohibit any persons, whose property may have been distrained or sold, from instituting a suit in the court of Dewanny Adawlut of the jurisdiction, against the distrainer, for any injury which they may think they have thereby sustained. Nor to prevent the several descriptions of landholders, or farmers of land, or other persons vested with the power of distraint, from prosecuting in the court of Dewanny Adawlut of the jurisdiction, for arrears due to them from any under-farmer, ryot, or dependent landholder, or putteedar, or their sureties; should they prefer the last mentioned mode of procedure, to distraining and selling the personal property of the defaulter, or in the cases authorized, of his surety, for the recovery of the arrears." *Second.* Suits instituted under the regulations cited are to be heard and determined on summary inquiry; and with a view to expedite the decision of such causes, it is directed by Section 21, Regulation 5, 1812, that "the whole of them shall be referred, as soon as instituted, to the collectors, for their report

report, under the rule contained in Section 13, Regulation 8, 1794.* It is further (by Section 22, Regulation 5, 1812,) required of the Board of Revenue and Board of Commissioners "to obtain from the collectors such periodical returns, regarding the execution of the abovementioned duty, as may appear best calculated to satisfy those Boards that no delay occurs in the performance of it." And by Section 23, it is provided that "any person, who may be dissatisfied with the judgments which may be passed under the summary enquiries abovementioned, shall be at liberty, on the principle of the rules established by the existing regulations, to institute a regular suit for the more formal investigation of the merits of the case." *Third.* The regular suit in such cases may be either instituted in the zillah or city courts; or if the claim be not for more than sixty-four rupees, (to which amount the jurisdiction of the Moonsiffs is now limited, under the provisions of Section 13, Regulation 23, 1814,) the action is cognizable as a regular, though not as a summary suit, by the local native commissioner. This was expressly declared in Section 13, Regulation 7, 1799; re-enacted for Benares in Section 13, Regulation 5, 1800; and for the Upper Provinces in Section 30, Regulation 28, 1803; and no part of Regulation 23, 1814, since enacted, precludes the moonsiffs from taking cognizance of regular suits, preferred to them in conformity with that regulation, for arrears or exactions of rent, or for damages sustained by an unjust distress and sale of property, not exceeding the prescribed limitation of amount.

How far such cases are cognizable by the Native Commissioners, under Reg. 7, 1799, Sec. 13. Reg. 5, 1800, Sec. 13. Reg. 28, 1803, Sec. 30.

The landholders, and farmers of land, being thus provided with legal and efficient means, for the recovery of their rents, are prohibited from confining, or inflicting corporal punishment on any under-farmer, ryot, or dependent landholder or putteedar, or their sureties, to enforce payment of arrears of rent or revenue. "If any landholder, or farmer of land, shall offend against this

Landholders and farmers prohibited from confining their tenants or their sureties, or inflicting corporal punishment, to enforce payment of arrears of rent. Reg. 17, 1793, Sec. 28. Reg. 43, 1795, Sec. 26. Reg. 28, 1803, Sec. 26.

* See vol. I. page 80. The rule cited from Section 13, Regulation 8, 1794, was re-enacted for the upper provinces in Section 2, Regulation 7, 1813.

prohibition,

prohibition, the person so punished, or confined, is at liberty either to prosecute the offender for assault or imprisonment in the criminal court, or to institute a suit against him in the Dewanny Adawlut of the jurisdiction; which court is to award damages against such offender, according to the circumstances of the case, with costs of suit."* To

* The rules for recovering arrears of rent by distress being general, the court of Sudder Dewanny Adawlut, on the 4th January 1798, were of opinion, that they "must be understood to apply to the rents of lands held exempt from the public revenue, as well as to the rents of lands subject thereto." The court repeated this opinion, in answer to a reference from the Patna Provincial Court, under date the 22d January 1805; and at the same time determined that the summary process, hereafter mentioned, provided for by Regulation 7, 1799, "being general, must be considered applicable to all claims for arrears of rent; whether due from lands paying revenue, or from lands held exempt from the payment of revenue."

It may further be useful to insert in this place the following copies of a letter from the acting judge of zillah Goruckpore, to the Register of the Sudder Dewanny Adawlut, dated the 30th November 1810, and of the answer written to him, by order of that court, under date the 27th December 1810; especially as the instructions given by the Sudder Dewanny Adawlut to the acting judge of Goruckpore, on this occasion, were transmitted, on the 3d June 1813, to the whole of the zillah, city, and provincial courts, for their information and guidance.

1.—*Letter from the Acting Judge of zillah Goruckpore, to the Register of the Sudder Dewanny Adawlut, 30th November 1810.*

"In submitting the accompanying papers to the Court of Sudder Dewanny Adawlut, it may be necessary, in explanation, to observe, that it has been the practice for the zemindars in this district, instead of distraining the property of defaulting tenants themselves, to apply to the commissioner for the sale of distrained property, to depute a person in the first instance, to make the attachment. Although the zemindars have been made acquainted with their right of distraining property themselves, without applying to the commissioner, the refractory spirit of the ryots, and their own poverty, and want of authority, induce them almost invariably to adopt the mode mentioned above; and as the presence of an officer of Government on such occasions tends greatly to preserve regularity, and prevent resistance on the part of the defaulters, and their relations often constituting almost the entire population of the village, it has been encouraged and authorized by several perwannahs from Mr. ASHMUTY, and from different gentlemen who have officiated as judge. It was however found, that numerous affrays took place, in consequence of the zemindars of different villages, with their relations and followers, going in large bodies to distrain each other's property, for the rent of disputed land; and it was thought necessary to issue an order to the commissioners, not to distrain property for arrears of rent, unless the zemindar could produce a cabooleat from the defaulter. The court will perceive from the accompanying papers, that this order has proved injurious to the zemindars; who are exposed to have their estates sold for arrears of revenue, at the same time that they are restricted from distraining for the rents of undisputed lands, unless the ryots choose to subject themselves to it by giving cabooleats, which they frequently refuse to do. Being however aware that its unqualified revocation will

To enable proprietors, and farmers of land, to recover, with facility, arrears of rent, which, from the large amount, cannot be immediately

Summary proceſs for recovery of arrears of rent, too conſiderable

will give rise to numerous affrays, I have deferred rescinding it for a month, in hopes of being favored, before the expiration of that time, with the orders of the court on the subject, and under an impression that it may be thought expedient to impose some restrictions on distraining property for the rent of land in dispute. Adverting to the circumstances mentioned in the begining of this letter, it would not be difficult to carry any restrictive order into effect in this district, in which the boundaries of estates are in general very imperfectly ascertained. The distraint in such cases being considered as an attempt, on the part of the opposite party, to establish the point of their being in possession of the land, in which the greater part of the inhabitants of the village are often more or less interested, they are not to be restrained from taking part with the supposed defaulter, and proceeding to acts of the utmost violence."

2.—*Letter from the Register of the Sudder Dewanny Adawlut in answer to the above, 27th December* 1810.

"I am directed by the Sudder Dewanny Adawlut to acknowledge the receipt of your letter of the 30th ultimo, with its inclosures; and to communicate to you the following instructions.

"The court are of opinion, that proprietors of lands and others entitled to distrain, being authorized to attach the property of defaulters by their agents, there is no objection to their employing the commissioners for the sale of distrained property, and their officers, for that purpose; and under the circumstances stated by you, entirely approve of the encouragement which has been given to the practice in your district. The court are further of opinion, that persons entitled to distrain are not bound by the regulations to produce the caboolcats of defaulters to the commissioners for the sale of distrained property, on requiring them to proceed to a sale. But the court remark at the same time, that the provisions for distraint suppose that the distrainer is in actual possession of the lands, on account of which the distraint is made; and that consequently when the fact of the possession of lands is disputed, it is the duty of the commissioners for the sale of distrained property to refuse proceeding to a sale, and to refer the claimants to the Dewanny Adawlut, where they may either lodge a regular action against any persons disputing their title, or bring a summary suit against the alleged defaulters. That should, as is most probable, the latter course be pursued, the judge will summarily investigate the fact of the claimant's possession, giving any persons who may set up adverse claims to the land, and allege their possession of the same, an opportunity of being heard. That according as the claimant's possession shall be established, or disproved, the judge will dismiss his claim, or adjudge him entitled to recover the arrear, and of consequence, to levy the rent of the contested land, and to distrain; until the summary decision be superseded by a regular judgment. That the possession being thus provisionally determined, no embarrassment can be afterwards experienced. By following the course above explained, the court are of opinion, that no inconvenience will be experienced from recalling the proclamation mentioned in the 2d paragraph of your address, and they desire that you will recall it accordingly. You will at the same time issue perwannahs to the commissioners for the sale of distrained property, in conformity to these instructions; and will direct the darogahs of police to refuse their aid to the attachment of property on account of arrears of disputed lands."

To be realized by distress of personal property.

immediately realized by the levy of distress on personal property, under the rules which have been stated, the following additional rules are prescribed by Regulation 7, 1799, for the lower provinces; Regulation 5, 1800, for Benares; and Regulation 28, 1803, for the upper provinces.*

Reg. 7, 1799, Sec. 15. Reg. 5, 1800, Sec. 14. Reg. 28, 1803, Sec. 32. Any landholder or farmer, to whom an arrear of rent may be due from an undertenant, which cannot be realized by distress, may cause the arrest of the defaulter and his surety in the manner following.

1. *First.* Any zemindar, talookdar, or other proprietor, or farmer of land, to whom an arrear of rent may be due from a dependent talookdar, kutkinadar, jotedar, or other undertenant of whatever denomination, which cannot be realized by distraining the personal property of such undertenant, and his surety (if he shall have given security,) is at liberty, after demanding such arrear from the defaulter, and from his surety, if forthcoming, or without any express demand if he have reason to believe that the defaulter or his surety is prepared to abscond, to cause the immediate arrest of such defaulter and his surety in the manner following.*

Petition to be presented to judge of the Dewanny A-

Second. "The proprietor or farmer, to whom the arrear may be due, or his authorized agent, is at liberty to present a petition

It may be added, as connected with the general subject of this note, that the court of Sudder Dewanny Adawlut, on the 26th March 1808, in answer to a reference from the judge of zillah Juanpore, declared their opinion, "that the provisions of Regulation 5, 1800, (which correspond with those of Regulation 7, 1799, for the lower provinces) are equally applicable to persons in possession of estates under deeds of mortgage, as to regular proprietors and farmers of land."

* It is explained by Regulation 9, 1801, that "it was not intended that molungees and others employed in the manufacture of salt, or weavers and others employed in the provision of the Company's investment, should be included in the rule enacted by Section 15, Regulation 7, 1799, whereby proprietors and farmers of land, to whom an arrear of rent may be due from their under-tenants, which cannot be realized by a distress of personal property, are authorized to cause the arrest of the defaulter and his surety in the mode therein prescribed, and their confinement after a summary enquiry before the judge of the zillah Dewanny Adawlut." The rules to be observed for the recovery of arrears of rent from persons so employed will be stated, with other rules concerning them, in the next part of this Analysis.

† The court of Sudder Dewanny Adawlut informed the judge of the Jungle Mehals, on the 13th September 1808, that they were of opinion, "the whole of the provisions of Section 15, Regulation 7, 1799, are equally applicable to defaulting tenants, and their *malzamins*; but that they cannot be applied to *bazirzamins*, unless the defaulters, for whose appearance they are unswerable, abscond; in which case the hazirzamin, as well as the malzamin, is answerable for what may be due from the defaulter, and may be proceeded against accordingly."

to

to the judge of the zillah Dewanny Adawlut, or in cases wherein there may be reason to apprehend the immediate elopement of the defaulter or his surety, to the native commissioner for the trial of civil suits, within whose jurisdiction the party may reside, setting forth, in specific terms, the arrear due from the defaulter; and praying that he and his surety (in case he shall have given security) may be taken into custody, unless the amount be paid. On the receipt of a petition to this effect by a native commissioner, he shall, if the defaulter and his surety, or either of them, be within his jurisdiction, immediately cause such party to be arrested; and unless immediate payment be made of the arrear demanded, shall within twenty-four hours cause him to be conveyed to the judge of the zillah Dewanny Adawlut; who shall proceed thereupon in like manner as he is hereafter directed to do in the event of the petition having been presented to him, and of the party having been arrested by his immediate order. But no native commissioner shall detain any defaulter or surety in custody, without sending him to the judge, above twenty-four hours, under penalty of being dismissed from his office, and made liable to prosecution for false imprisonment; unless the party in arrest shall, by a written application, desire the same, for the purpose of adjusting his arrear with the party who caused his arrest, and the latter shall assent thereto; in which case his written acquiescence is to be superscribed, or endorsed, on the application, with his signature; and to be written in such specific terms as may leave no doubt of the time for which such assent to stay process is given."

dawlut or native commissioner for the trial of civil suit.

What such petition is to contain.

Native commissioner how to proceed on receipt of such petition.

And judge how to proceed on the party arrested by a native commissioner being brought before him.

No commissioner to detain a defaulter, or surety, in custody, without sending him to the judge, above twenty-four hours.

Except by desire of the parties, and under a written assent to stay process.

Third. "If the petition of arrest, stated in the preceeding clause, be presented in the first instance to the zillah judge, (and to save time, it is allowed to be presented either in or out of court, and by any authorized agent, whether one of the established vakeels of the court, or otherwise,) the judge, if the defaulter or surety be within his jurisdibtion, * is immediately to issue a dustuck

Judge how to proceed if the petition of arrest be presented to him in the first instance.

* On the 31st August 1815, the court of Sudder Dewanny Adawlut, in answer to

Dastuck for arrest issued by the judge how to be executed.

tuck for the arrest of such party, and to bring him before the court, unless he pay the arrears demanded; and if such payment be

a reference from the judge of the city of Moorshedabad, expressed their opinion, "that the provisions of Section 15, Regulation 7, 1799, (corresponding with Section 14, Regulation 5, 1800, for Benares, and Section 32, Regulation 28, 1803, for the upper provinces,") suppose the under-tenant, or his surety, at the time of a petition being preferred for the arrest, to be within the zillah or city jurisdiction in which the land, for which the arrear of rent is claimed, may be situated; as the summary inquiry provided for could not be regularly or conveniently made in a different jurisdiction; and the regulation contains no provision for arresting an under-tenant or surety, in one zillah or city in which he may be resident, and sending him to another in which the land is situated." But on the 10th July 1816, a copy of the following letter, from the Secretary of Government in the Judicial Department, was transmitted to the judges of the several zillah and city courts, with information that "under the circumstances stated in the secretary's letter, and there being no express provision in the regulation adverted to, respecting under-tenants of land, or their sureties, resident in a jurisdiction different from that in which the lands are situated, the court see no objection to an observance of the practice noticed in the 5th paragraph of Mr. BAYLEY's letter, until an additional rule shall be enacted and promulgated on the subject."

Letter from the Secretary of Government in the Judicial Department, to the Register of the Sudder Dewanny Adawlut, dated the 28th June 1816.

"I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of your letters of the 1st ultimo, and 19th instant, forwarding petitions from the zemindars of Burdwan and Ranee KUMUL KOONWAREE, on the subject of the difficulties experienced by them in the realization of the rents of their estates, under the construction which has recently been given by the court of Sudder Dewanny Adawlut to the provisions of Section 15, Regulation 7, 1799. On the receipt of your letter of the 1st ultimo, a copy of it, and of its enclosures, was referred to the Territorial Department, in order that the subject stated in it might be taken into consideration, at the same time with the proposed regulation regarding the Mal Adawluts. The draft of that regulation however having been since forwarded to the court of Sudder Dewanny Adawlut, His Lordship in Council requests that the court will consider whether the omission in Regulation 7, 1799, to provide for the arrest of an under-tenant (or surety) residing in a zillah or city, different from that in which the land rented by him may be situated, cannot, in the mean time, be supplied by a circular order of the Sudder Dewanny Adawlut, under the general discretion vested in the court by Section 31, Regulation 6, 1793. The Governor General in Council conceives that the summary enquiry provided for by Regulation 7, 1799, can only be made in the court within whose jurisdiction the land of the defaulter (or the greater part of it, if in two jurisdictions) may be situated. At the same time it is obvious that if the process of arrest be confined exclusively to individuals actually within that jurisdiction, nothing can be more easy than the evasion of the process; and that the under-tenant, or his surety, by retiring for a time beyond the boundary of the zillah or city in which the land is situated, may effectually deprive the landlord of the facilities in realizing his rent, which the provisions of the regulation above quoted were intended to convey. This inconvenience appears to have

be not made on the service of the dustuck, or within twenty-four hours afterwards, (which time is to be allowed to the party arrested to adjust the demand,) the officer charged with the dustuck is to complete the execution thereof by conveying the party to the zillah court. Provided however, that if the party arrested shall, by a written application, request a longer period than twenty-four hours to adjust the demand against him, and the party causing the arrest shall, by a written superscription, or endorsement, on such application, acquiesce therein, the officers charged with the dustuck, shall delay the execution accordingly; and whenever the party at whose instance the dustuck may have been issued shall, by a written derkhaust, declare himself satisfied, and desire the arrest to be withdrawn, it shall be immediately withdrawn accordingly; the officers charged with the dustuck, (who are never to exceed two in number, unless in any particular case a greater number be considered necessary to prevent escape;) being at the the same time paid the tullubaneh due to them, according to the established rate of two annas per diem, or any lower rate that may have been the customary allowance to persons deputed with revenue processes."

Dustuck when to be withdrawn.

Number of officers to be charged with dustuck.

And rate of tullubaneh to be allowed them.

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have been practically felt to a great extent in Burdwan; and it would appear just and proper, that some remedy should be applied without delay. The practice which is understood to have been generally in force in the zillah and city courts, previously to the orders of the Sudder Dewanny Adawlut, of the 31st August 1815, was as follows: The judge of the zillah in which the land might be situated, on receiving a petition of arrest, in conformity with the Second and Third Clauses of Section 15, Regulation 7, 1799, against an alleged defaulter, or surety, residing or being in another jurisdiction, issued the prescribed process through the judge of the zillah or city in which the defaulter or surety was stated to be, with a request to the latter to enforce the process, or give any requisite assistance for the purpose, in like manner as directed in Section 6, Regulation 4, 1793, with respect to the personal attendance of a party in a regular suit, who may be resident beyond the limits of the court in which the suit is instituted. If this practice cannot, in the judgment of the court, be again provisionally sanctioned, without a formal legal enactment, it will probably be desirable to adopt the latter alternative, without the delay which would arise from including the necessary provisions in the proposed regulation, regarding the Mal Ahawluts. But as it would, for obvious reasons, be preferable to issue provisionary instructions, as a temporary expedient, the court are requested to take the subject into their early consideration, and either to transmit a circular notice to the zillah and city courts in explanation of the existing rules, or to submit the draft of an additional rule, such as may appear to them necessary to be enacted by Government."

Summary enquiry to be made by the judge upon a party's being brought beio him under either of the two preceding clauses.

Fourth. "When a defaulter, or his surety, may be brought to the zillah court under either of the two preceding clauses, the judge shall call upon him to answer the demand against him; and if he deny it, or any part of it, shall enter upon a summary enquiry into the merits of it, by examining the vouchers and accounts of the parties: or may refer the case to the collector of the district for adjustment and report; which he is required to do, in every cause of this description, that neither himself or register, may be able, from other avocations, to try and determine without delay, and which may not be cognizable by the native commissioners. The landholders and farmers are allowed to employ any vakeel they may think proper to appoint, provided he be duly empowered by them, to attend such enquiries, before the collectors, as well as the summary enquiry directed in this regulation before the judge."

Or case to be referred by him to the collector for adjustment and report.

In what cases the defendant is to be discharged, with costs and damages.

Fifth. "The judge, after receiving the collector's report if the case be refered to him for adjustment, or after completing his own enquiry if it be not so referred, is to discharge the defendant with full costs and damages, if it appear that no arrear is due from him; or that the arrear demanded has been wilfully misstated by the plaintiff, and a considerable proportion of the demand is not justly due to him. But if it appear that the arrear demanded, or a considerable proportion thereof, be justly due from the defendant, he is to be kept in close custody, until he pay the amount, with all costs, and interest on the arrear at the rate of one per cent per mensem; or until the plaintiff make application to the court for his release. The plaintiff is to pay to such defendants, whilst in confinement, the same allowance for their subsistence as is fixed for other prisoners in the jail of the Dewanny Adawlut, viz. such allowance as the judge may think proper on consideration of the rank and situation of the prisoner, not exceeding four annas, nor less than one anna per diem; and the payment is to be made in the same manner, and under the same

Defendant to be kept in close custody, if the arrear demanded or a considerable proportion thereof be found due from him, and to pay costs and interest.

Subsistence allowance to be paid by plaintiff to the defendant whilst in confinement.

provisions.*

provisions.*

Sixth.

* On the 31st August 1815, the following communication was made, by order of the Sudder Dewanny Adawlut, to the judge of the city of Moorshedabad, relative to the summary inquiry provided for in the Fourth and Fifth Clauses of Section 15, Regulation 7, 1799. "The summary inquiry authorized by Section 15, of the above-mentioned regulation, being expressly restricted, by the Fourth Clause, to cases in which the under-tenant, or his surety, may be arrested and brought into the zillah court, under the preceding clauses of the same section, the inquiry authorized cannot take place without the arrest of the under-tenant, or his surety. But a reasonable time should be allowed to the plaintiff to point out the under-tenant, or his surety, before the petition of arrest, received under the Second Clause of Section 15, Regulation 7, 1799, is finally disposed of; and if there be no default of the plaintiff, it would, the court think, be proper to extend the period originally granted, if the plaintiff desire it, with a view to save his right of summary action, under the First Clause of Section 4, Regulation 2, 1805."

The following previous communication had been made to the judge of zillah Nuddea, on the 16th January 1812, in answer to a reference from the assistant judge of that district, for the opinion of the court of Sudder Dewanny Adawlut, *whether summary suits, instituted under Regulation 7, 1799, may be tried* exparte, *on the defendant's evasion of process for his arrest, and non-attendance on proclamation.*

"The court observe that the professed object of the summary process authorized by Section 15, Regulation 7, 1799, (as declared in the First Clause of that section) is to enable landholders, and farmers, to whom arrears of rent may be due, which cannot be realized by distraining the personal property of their under-tenants, to cause the immediate arrest of the defaulter and his surety, and their subsequent detention in close custody, until the arrear be paid, with interest and costs; that the proprietor, or farmer, to whom the arrear may be owing, being at the same time at liberty to attach the jote, or other tenure, of the defaulter, and to manage the same, in such manner as he may think proper, until the rent due be liquidated, with interest; with further provision, (in the seventh clause of the above mentioned section) for ousting the defaulting tenant, or bringing his tenure to sale, at the end of the current year, if the arrear be not recovered by the attachment, or discharged by the defaulter, or his surety. The court are therefore of opinion that the summary inquiry provided for by Section 15, Regulation 7, 1799, was not intended to be made *exparte*; but on the arrest of the defaulter, or his surety; and they are not aware, in what case, and for what purpose, it would be advantageous to the landholders, or farmers, claiming an arrear of rent, that the inquiry directed in the above section should be made without the arrest of the defaulter or his surety, unless it be to warrant an application to the Dewanny Adawlut for the sale of a transferable tenure, at the end of a year, in pursuance of the seventh clause before referred to. The court however, previously to forming a final opinion on the question referred by the assistant judge, wish to be informed in what cases it has been usual (as stated in the 3d paragraph of Mr. CLARK's letter) *to proceed to an investigation, on the allegation and documents of the plaintiff only*; to what effect judgments have been given on such investigations; as well as in what manner they have been executed."

It does not appear that the information desired in the concluding part of the above letter was ever transmitted to the Sudder Dewanny Adawlut, and consequently no final decision was passed by the court on the propriety of an *exparte* inquiry, in certain cases

In what cases proprietors and farmers of land may attach the farm, jote, or other tenure of their defaulting tenants, and collect therefrom the arrears of rent due to them, with interest.

Sixth. "When an under-farmer, jotedar, or other under-tenant, arrested as above described, shall not immediately discharge the arrear demanded from him, and shall in consequence be taken in custody to the judge of the Dewanny Adawlut, the proprietor or farmer of land, to whom such arrear may be owing, is at liberty to attach the farm, jote, or other tenure of such defaulter, and to manage the same by his own agents, or in such manner as he may think proper, until the rent due to him, with the further rent that may become due after the attachment, and interest upon the whole arrear at the rate of one per cent per mensem, shall have been liquidated from the produce. But in such cases of attachment, the proprietor or farmer making the same shall not exact more from the cultivators of the soil, and other descriptions of inferior tenantry, whose rents for the current year may have been payable to the defaulter, than the defaulter himself would have been entitled to receive from them if the attachment had not taken place; (cases of collusion and illegality under the regulations excepted;) and in the event of the defaulter making good the arrear due from him, with interest at the rate of one per cent per mensem, at any time within the current year, the attachment shall be immediately withdrawn, and a full and fair account rendered to him of all receipts and disbursements during the continuance of it."

Restriction against undue exactions from the cultivators of the soil and other inferior tenantry in such cases.

Attachment to be withdrawn on payment of the arrear due, with interest, at any time within the current year. And a fair account rendered of all receipts and disbursements.

What further measures may be taken by the landholders and farmers for the security of their future rents, if

Seventh. "If the arrear be not liquidated within the current Bengal, fusly, or willaity year (according as the place may be situated), either by the payments of the defaulter or

cases, at the end of the year; viz. when the defaulting tenant, or his surety, cannot be arrested, and may not attend on proclamation; and application may be made to the Dewanny Adawlut for the sale of his tenure to liquidate the balance due from him, in pursuance of another clause in the same section, which is more particularly mentioned in the sequel. It is obvious that no effectual investigation could be made in such cases without an exhibition of the defendant's vouchers; and in some recent instances, that have come judicially before the Sudder Dewanny Adawlut, it was judged proper, until an explanatory and amended rule (which is evidently required) shall be enacted, to allow a practise, which had obtained in such cases, of leaving the balance, if contested by the tenant, to be determined by a regular suit; and authorizing the sale of the defaulter's tenure, to make good the arrear claimed from him, when neither himself or his surety may attend on proclamation, to disprove the claim, or discharge the amount due.

his surety, or by the attachment of his tenure, the zemindar or other proprietor of the land, or the farmer in whose farm the defaulter's tenure may be included, (if such farmer's lease extend beyond the current year,) is at liberty, at the commencement of the ensuing year, to make such provision for the future receipt of the rents payable to him from the land tenanted by the defaulter, as he may judge proper, and may be consistent with the rights of all other persons concerned. If the defaulter be an under-farmer for the past year only, or whose lease may have expired with the past year, he can, of course, have no claim to any further lease; and although his lease may not have expired, if he shall have neglected to fulfil the conditions of it by the payment of his stipulated rent, it must be considered liable to be annulled, or otherwise, at the option of the lessor. But if the defaulter be a dependent talookdar, or the holder of any other tenure which, by the title deeds or established usage of the country, is transferable by sale or otherwise, it may be brought to sale, by application to the Dewanny Adawlut, in satisfaction of the arrear of rent;* and the purchaser will become the

the arrears due to them be not liquidated within the current year.

Defaulting under farmers, whose leases may have expired, can have no claim to any further lease.

And although their leases may not have expired, neglect to pay the stipulated rent, subjects the farms of this description of defaulters to be annulled at the option of the lessor. . . . . If the defaulter be a dependent talookdar, or the holder of any other transferable tenure, it may be brought to sale for the arrear, by ap-

* The general terms of this clause not prescribing any definite rule for the guidance of the civil courts when applications are made for the sale of a dependent talook, or other transferable tenure, much uncertainty has existed on the subject; and different modes of proceeding have been adopted in different courts. Under the general rules for sales of land, in execution of judgments of the civil courts, (stated in vol. I. page 75, and vol. II, page 416,) the judge of zillah Nuddea was informed by the Sudder Dewanny Adawlut, on the 15th July 1813, that sales of land in execution of a summary judgment passed under Section 15, Regulation 7, 1799, should be made through the Board of Revenue; viz. under instructions from that board, either at the office of their secretary, or by the local collector. But in the districts of Burdwan, and Hoogly, where numerous dependent talooks have been constituted by the zemindar of Burdwan, since the permanent assessment of his zemindary, under the denomination of *puttuny*, (which may be rendered *settled*, or *established*,) the zemindar, after applying for the sanction of the zillah court, has been allowed by the judge to make the sale in his own cucherry. The special conditions of the puttuny tenure have partly led to this mode of sale, under the want of a precise rule in the regulations. This description of talook, in the first instance, is sold by auction in the zemindar's cucherry, though generally at a low price, not exceeding a third or a fourth of the annual rent. An engagement, called a *bund sale*, is executed immediately on the purchase, specifing the mehals sold; (which often consist of many villages;) the jumma,

 or

plication to the Dewanny Adawlut.

the tenant for the new year: or if the defaulter be a lease-holder or other tenant, having a right of occupancy only so long as a certain

or annual rent; and the price; 15 per cent of which is paid down, and the remainder agreed to be paid within eight days, under penalty of forfeiting the earnest money, and making good any loss arising from a resale. The purchase being afterwards completed, a *pottah* is granted by the zemindar, and the purchaser executes a *kubooleeut* and *kistbundy*. The following is an official translation of an actual pottah granted by Maharajah TAIJ CHUNDER, zemindar of Burdwan, for a puttuny talook, purchased by KHAITOONATH GHOSE, in the Bengal year 1210, (corresponding with A. D. 1803,) and is understood to be the usual form adopted for pottahs of this description.

"TO KHAITOO NATH GHOSE, &c. Having established (*puttun*) you moofussulee talookdar of lot Punoogunda, in the pergunnah of Gope Bhumee, included in my zemindary of Burdwan, &c. which contains 22 mouzas, with an ayma mehal, and the annual jumma of which is 12,541 rs. 14 as. 11 gs. for the price (*summun*) of 4300 sicca rupees, I have received the said sum in full. You may take possession (according to the undermentioned particulars) of the said mehal, in the usual manner; of the land, mal and komar; the chakeran, the arable and fallow grounds, woods, produce of water, gardens, products of the sale of fruits, tanks, ponds, and lakes; whatever rights belong to the zemindary; except the gardens, houses, and tanks which are in my personal possession (*khas dukhul*): with these you have no concern. You will pay into the cucherry of my zemindarry the annual jumma, in sicca coins, monthly, by instalments according to the kistbundee. You can in no wise be separated from my zemindary. You will never on any account pay more or less than the jumma which I have fixed on this puttuny talook. Having performed the terms of your kubooleeut, and having satisfied the ryots, you and your heirs, generation other generation, paying this jumma, will enjoy in quiet this talook. Dated 16th Sawun 1210, B." *Here follow the names of the 22 mouzas.*

The following is also an official translation of the kubooleeut, or agreement, executed by KHAITOO-NATH, and addressed to Maharajah TAIJ CHUNDER; being in exchange for the above pottah, though dated a few days anterior to it, on the day when the sale took place.

"This kubooleeut is written by KHAITOO NATH GHOSE, and the object of it is this. I purchased a moofussulee puttuny talook, in the pergunnah of Gope Bhumee, lot Punoogunda, containing 22 mouzas, at the annual jumma of 12328 sa. rs. 14 as. 11 g. and some ayma land with the annual jumma of 213 rs; in all amounting to an annual jumma of 12,541 rs. 14 as. 11 g. for the sum of 4300 sa. rs. Being well acquainted with the amount of the jumma, I have signed my name to this deed, and will make no complaint concerning the jumma, either in consequence of the diminution, or want of assets, on account of the bursting of embankments, wet, drought, or other losses; or if I do, it cannot be attended to. I will pay the annual jumma according to the kistbundee, by monthly instalments in assayed sicca rupees, into the cucherry of your zemindary. If the monthly instalments be not paid, they shall bear interest from the first of the succeeding month; and to pay what is due, together with interest, at the end of the year, you are empowered to sell the talook; and dispose of it at your discretion. (*Bech kurke upne iktiyar men laege.*) Should it be insufficient to pay the arrears with interest, you may sell my other property

tain rent, or a rent determinable on certain principles according to local rates and usages, be paid, without any right of property or transferable

Or if the defaulting tenant have a right of occupancy only

perty and liquidate the balance therewith. I will pay the jumma of this talook into the cucherry of your zemindary. I will not by any means petition to be separated, nor will I be separated, from your zemindary. If I, or my heirs, should deliver a petition to that effect, it must not be attended to. If I fraudulently give a mehal, out of this mehal, as a talook to any one, at a reduced jumma, it will be inadmissible, (*na-munzoor.*) If I should not pay the instalments, and you appoint a moofussilee sezawul, I will pay his monthly salary, and will cause my umlah to attend him; but he shall not receive a greater salary than that granted by his sunnud. Should the sezawul retain or embezzle any thing, I will take an account from him; but will make no excuse to you an account of arrears of jumma. I will in no wise act in opposition to the regulations. Whatever fund for religious worship has existed from time of old, that I will maintain. When any papers shall be required by the civil or criminal Court, or by the collector's cucherry; and when any order shall come to supply provisions for passing troops, I will without fail attend thereto. If I act otherwise, I will pay the penalties. I will not in any wise interfere with your houses, gardens, and tanks, which are in your own possession. The sudder mukuddum of the pergunnah has contracted for the business of repairing the embankments from the year 1210 to the year 1215; should he give up the contract, demise or flee, I engage to repair the embankments within my talook. I will take a proportion of the money agreed on by the contract, and will not claim any increased allowance for expenses. I will act conformably with the contractor's deed of agreement. During the term of contract, if any damage accrue to my talook, by reason of the bad repair of the embankments, I will cause the contractor to make it good. This has no connection with you. Should the Government deem it expedient to resume the revenue on lands appropriated to the officers of the zillah thannahs, I will separately pay annually the sum demanded. I will demand the same jumma from lands let out to farmers previous to the settling of my mehal, as was before payable, during the continuance of their leases. I will take possession of such mehals as are not let out to under-renters. I will take an account of any collusive settlements made by the farmers and under-renters. (*Kutkinehdars.*) I will make no excuse on the ground of the death or flight of a farmer. If a farmer cause any diminution of jumma, or is proved to have acted in any way contrary to the regulations, I will substitute another in his place. Should any of the farmers, or their kutkinehdars, make any complaints, I will reply to them. I will exact from the said farmers whatever is due to your sirkar according to their kubooleeuts. This kubooleeut, I have written of my own free will—Dated 27th Assar 1210, B."

On the 27th June 1809, the court of Sudder Dewanny Adawlut had before them a letter from the judge of the Jungle Mehals (Mr. W. BLUNT) submitting copies of a deed of sale, and counterpart engagement, for the puttuny talooks granted by the zemindar of Burdwan, in Bishenpore and other mehals belonging to him within that zillah. He at the same time stated that great oppression to the ryots, as well as serious affrays, had arisen from the frequent transfer of these talooks, and the exercise of a right assumed by the zemindar, of dispossessing the purchasers, and reselling the talooks, of his own authority, without any application to the court, whenever a balance of rent became due. Durputtunydars, or inferior tenants, who had purcha-

sed

depending on the payment of a certain rent, he may be re-

transferable possession, the proprietor of whom such tenure is held, or the farmer or other person to whom such proprietor may have

sed their under-tenures from the puttuny talookdar, on terms similar to those of his purchase from the zemindar, were also stated to proceed in like manner, when their under-tenants fell in arrear to them; and the judge, after forcibly urging the necessity of adopting measures to counteract the evil consequences resulting from the practise referred to, proposed that no purchase of a puttuny talook should be cancelled without proof of a balance of rent by a regular suit in the civil court. He added that "if by the decision of the court the sale should be cancelled, and the right of reselling, or otherwise disposing of the talook, revert to the zemindar, the rights in the talook of any dur-puttuny talookdar, or other description of tenant, which might have been derived from the sudder talookdar, would, I conceive, cease from the date of the decision of the court, whereby the rights of the sudder talookdar were declared forfeited." The following answer was returned to this letter, by order of the Sudder Dewanny Adawlut.—"The court, on examination of the deed of sale and kubooleeut, executed by the seller and purchaser of the talooks referred to, do not find that they authorize the former to dispossess the latter, and resell the talook, whenever the stipulated rent may be in arrear. On the contrary, the terms expressed in the kubooleeut are, that if the instalment due for any month be not paid by the first day of the ensuing month, interest shall be demandable upon the balance, according to the regulations; and for the realization of whatever sum may be due at the end of the year, inclusive of interest, the zemindar may resell the talook. If the principal and interest due be not realized by such resale, any other property belonging to the talookdar is also declared liable to sale. And if the zemindar, on failure in the payment of any monthly instalment, depute a sezawul to make the collections, the talookdar is bound to pay the wages of the sezawul, as well as to cause the attendance of the mofussil umlah upon him. These conditions, with a restriction that the sale of the talook, at the end of the year, be made by order of the zillah judge, on application to the Dewanny Adawlut, as required by the Seventh Clause of Section 15, Regulation 7, 1799, being conformable to the provisions of that regulation, the court see no objection to them; and are of opinion that a regular suit in the civil court is not requisite for bringing the talook to sale, when an arrear of rent may be found due from the talookdar, at the end of the year, on the summary inquiry directed in the Fourth and Fifth Clauses of Section 15, Regulation 7, 1799. It appears to the court that a proper degree of attention, in adjusting the accounts between the talookdar and zemindar, on a summary investigation, as provided for by the regulation above mentioned, will preclude the consequences supposed in the 4th paragraph of your letter, from an erroneous judgment on the summary enquiry, reversed or altered by a subsequent regular suit; and that to compel the zemindar to institute and wait the final decision of a regular suit, before he could recover an arrear of rent, found due to him upon summary investigation, by a sale of the tenure from which the arrear is due, would be repugnant to justice, as well as inconsistent with the seventh clause of Section 15, Regulation 7, 1799, and the express stipulations of the talookdar's kubooleeut. The court are at the same time of opinion, that, with a view to prevent an unjust sale of the talook, when no arrear may be due, the zemindar should not be allowed to sell the talook at his own discretion; but should be required to apply for the sale

of

have leased or committed his rights, must be understood to have the right of ousting the defaulting tenant from the tenure he has forfeited

moved from the tenure he has forfeited by a breach of the conditions of it.

of it by the zillah court, as directed in the clause above mentioned. How far the sale of a puttuny talook, in the mode authorized by the regulations, would cancel the rights of all durputtuny talookdars, or other under-tenants, as stated in the 5th paragraph of your letter, the court cannot form an opinion, without having before them the pottah and kubooleeut of a durputtuny talookdar. They can therefore only refer you to the provisions in Regulation 44, 1793, as far as the same may be applicable; of which the court can form no judgment, without having the case more fully before them. The court observe, that the kubooleeut of the puttuny talookdar provides against collusive leases at a reduced rent, as well as against *meeyadee ijarahs*, which the court suppose to mean long leases, in opposition to Section 2, Regulation 44, 1793. But the evil consequences pointed out by you, as arising from the number of durputtuny tenants, and frequent changes in the persons who collect from the ryots within the year, would be most effectually guarded against by a condition in the kubooleeut of the sudder puttuny talookdar, that he should keep the management of the lands, which compose the talook, in his own hands; and as the interests of the zemindar, as well as those of the ryots, would be equally promoted by a clause to this effect, the court desire that you will suggest to the zemindar the expediency of adopting it, in any future talookdary pottahs which may be granted by him."

On the 14th November 1809, the court of Sudder Dewanny Adawlut had before them another letter from the judge of the Jungle Mehals, dated the 23d August, and enclosing a representation from the zemindar of Burdwan, in which he contended for his right to sell the puttuny talooks, in conformity with the condition of the talookdar's kubooleeut, in the event of any balance of rent being due at the end of the year. The zillah judge, at the same time, offered the following additional observations respecting the durputtuny tenures; and the clause against *meeyadee ijarahs*, which was introduced in the talookdar's kubooleeut before submitted by him; though it is not found in all engagements of this description; and is omitted in that of KHAITOO NATH, which was obtained from the Rajah of Burdwan, as the usual form of engagement taken from a puttuny talookdar.—"The engagements of the dur-dur puttunydars, and other tenants subordinate to them, noticed in the 6th, 7th, and 8th paragraphs of my letter, dated the 13th September 1808, are precisely similar: each talook being usually divided and resold by the puttuny talookdar, and again sub-divided and resold by each successive purchaser, in lots or portions decreasing in extent until it is no no longer divisible. The rights of these subordinate tenants however being derived originally from that of the puttuny, or sudder talookdar, whose own rights in the talook exist only while he shall duly perform his engagements with the zemindar, it becomes a question of much interest and importance to the landholders and ryots, whether on any failure of the sudder or puttuny talookdar, in the payment of his revenue, the tenures derived from him are liable to be cancelled by the zemindar, and the talook placed under attachment; or whether they are to remain in force. The term *meeyadee ijarahs*, which the court suppose to mean long leases in opposition to Section 2, Regulation 44 1793, is used in the engagements of the zemindar to signify leases for any specific period whatever; with the view of precluding any claims founded on such leases, which might interfere with the attachment of the talook, on any defalcation on the part of the puttuny talookdar in the payment of his revenues. Much difference of opinion prevails

Proprietors and farmers of land at liberty to exercise their just powers, in the

forfeited by a breach of the conditions of it. In such cases (viz. in the several cases enumerated in this clause, under the stated exception

vals in the zillahs wherein these tenures have existence, with respect to the right of the zemindar to cancel the sales and engagements alluded to; and to attach the talook. But it has ever appeared to me, as these intermediate sales, and transfers of portions of these talooks, are not confirmed by the zemindar, but are made without his knowledge and concurrence; and as, under the nature of the existing engagements between the zemindar and the puttuny talookdar, the rights of the latter in the talook have existence, not for any definite period, but only so long as he may continue to perform his engagements with the zemindar; that, under Section 59, Regulation 8, 1793, the dependent talookdar, or other tenant, cannot confer rights in the talook extending for any period beyond his own: this rule equally applying in its operation to each successive proprietor; and therefore that on the failure of the original or puttuny talookdar to perform his engagements with the zemindar, all rights, derived from and dependent on his, become annulled and invalid; unless the zemindar should voluntarily confirm them; but that to enable him to realize his revenues he must be considered to possess, and allowed to exercise, the right which he expressly reserves in his engagements with the talookdar, to attach the talook and collect the rents by means of his own officers; and to sell the talook, in the manner prescribed by Section 15, Regulation 7, 1799, for any balance of rent that may be due at the end of the year; leaving any durputtuny talookdar or other under-tenant, whose rights in the talook may thereby be superseded, to institute a suit for the recovery of the purchase money he may have paid, or for any damages to which he may consider himself entitled under his engagements, against the puttuny talookdar, or other person from whom his tenure was derived; and that the zemindar himself is not liable to be sued by such under-tenants for dispossessing them, and attaching the talook."

The reply of the court to the above letter was as follows:—"The court, on consideration of the arzee transmitted by you from the zemindar, in answer to your communication of the court's sentiments and orders of the 27th June last, see no reason to alter the opinion expressed in the 5th paragraph of my letter to you on that date; viz: that the zemindar should not be allowed to sell the talook, to make good an arrear of rent, at his own discretion; but should apply for the sale by the zillah court, in confirmity with the Seventh Clause of Section 15, Regulation 7, 1799. In reply to the zemindar's representation upon this point, you are desired to acquaint him, that a private agreement between the tâlookdars and himself cannot supersede the necessity of observing the provisions contained in the regulation abovementioned. The court further observe, that the zemindar alleges the invalidity of any durputtuny grants made by the puttuny talookdar without his (the zemindar's) written concurrence *(nishany.)* If this be established as a condition, expressed or implied, in the grant of puttuny talooks made by the zemindar of Bishenpore; and if the term *meeyadee ijarah* be used in the talookdar's kubooleeut, as stated in the 4th paragraph of your letter, "to signify leases for any specific period whatever, with the view of "precluding any claims founded upon such leases, which might interfere with the "attachment of the talook, on any defalcation of the puttuny talookdar in the pay-"ment of his rent;" the court are of opinion, that no doubt can exist of all assignments, or leases, made by the puttuny talookdar without the consent of the zemindar, becoming

exception when a sale of landed property may be desired,) proprietors and farmers of land are at liberty to exercise the just powers appertaining to them, without any previous application to the courts of justice;* but they will be held responsible for all acts done

cases herein stated, without previous application to the courts of justice. But will be held responsible for all acts

becoming extinct, on a termination of the puttuny talookdar's interest in the lands; as well as invalid against any demand of the zemindar upon the ryots, in cases of attachment for arrears of rent due from the talookdar, under the Sixth Clause of Section 15, Regulation 7, 1799. The court, on a general consideration of the rights of the zemindar, puttuny talookdar, and durputtuny tenants, as defined in the documents transmitted by you, concur in the sentiments expressed in your letter of the 23d August, as far as they are at present able to form any opinion upon the subject. But as the question is of considerable importance to the parties interested; and all matters of right, between the landholders and their under-tenants, can be properly ascertained and determined by judicial investigation only, as declared in the Seventh Clause of Section 15, Regulation 7, 1799; the court cannot pass any decision, or state any decisive opinion, without having the case regularly before them in appeal. You are therefore desired to exercise your own judgment upon the merits of any claim which may be brought to judicial cognizance in the zillah court; leaving either party, who may be dissatisfied with your determination, to the usual course of appeal."

At the time of writing this note (August 1817) no final decision has been passed on the rights of the durputtuny tenants referred to in the above letter; but a special appeal has been admitted by the Sudder Dewanny Adawlut, for the purpose of determining them. An explanatory regulation is also proposed, upon the point first noticed, viz. in what manner the sale of a dependent talook, or other transferable tenure, should take place, on applications made to the zillah and city courts, in pursuance of the Seventh Clause of Section 15, Regulation 7, 1799, and the corresponding rules for Benares and the upper provinces. But in the mean time, considering the indefinite terms of the clause adverted to; the construction given to it by the judges of Burdwan and Hooghly, as requiring only the sanction of the zillah court to a sale by the zemindar, or other landholder, of whom the tenure is held, in discharge of rent due to him; and the numerous sales which have taken place under this construction; the court of Sudder Dewanny Adawlut have deemed it just, in cases which have come before them judicially, to confirm such sales, provided they have been made on due publication, and in every respect openly and fairly, according to established usage.

* On the 17th September 1808, the judge of Purnea was informed, in answer to a reference made by him to the Sudder Dewanny Adawlut, "that under the provisions of Section 15, Regulation 7, 1799, as well as upon general principles of justice, a defaulting farmer is liable to be ousted from his farm at the end of the year, for which an arrear of rent may be due from him, if he shall not discharge the same on demand; and that the court were further of opinion, that the proprietor of the land is authorized to oust his defaulting tenant without application to the courts of justice, as declared by Clause 7, Section 15, Regulation 7, 1799; provided no violence be used, so as to bring the case within the provisions of Regulation 49, 1793." But in the year 1812, the acting judge of zillah Rajshahy (Mr. H. SHAKESPEAR) reported a case, in which much injury had been sustained by a farmer, who had been ousted from his farm, with the aid of the civil court, on the allegation of the zemindar, that

done by them or their agents beyond their full powers, infringing the

done by them, or by their agents, which may exceed their just powers, and infringe the rights of under tenants of whatever description

that he was in balance, whereas it afterwards appeared that he had paid his full rent. The acting judge therefore desired permission to revise the proceedings of his predecessor, (who had considered it his duty to support the zemindar in the exercise of his supposed right, under the regulation;) and concluded his letter with the following remarks and suggestion:—"I cannot conclude this subject without humbly soliciting the superior court to take into their consideration the expediency of modifying the rule of Clause Seventh Regulation 7, 1799, which particularly relates to proprietors of land being allowed to oust their defaulting tenants (farmers) without any previous application to the courts of justice. The right was never known or acknowledged in this district till within these few months, and it appears never without abuse. Petty or unproductive farms hold out no temptation to the lessor to resume them: it is in cases similar to that which I have detailed in this address, in which the farm has been gradually improved during a tenure of many years, and where the revenue is well paid up, that the proprietor finds his account in ousting his tenant, and putting in a new farmer, who will readily engage to pay an increased rent, when the resources have been augmented by the care and assiduity of the former tenant. It cannot fail to strike the court, that this power must tend to encourage a breach of good faith between the proprietor and his farmer, and to weaken that security in landed property which it is the first object of the regulations to strengthen and promote: and although it is provided in what maner a tenant, unjustly ousted, may recover his right if infringed, yet the process of a regular suit is too tedious, and the benefit too remote, to allow of any pursuing it. I trust I shall not be thought presumptuous in offering a few remarks on what appears to me the most expedient way of modifying the present rule, without making any material alteration of the regulations at present in force, respecting defaulting tenants. Instead of the power given to proprietors of land to oust their farmers, without any previous application to the courts of justice, it would be sufficient that it should be necessary for them to proceed against the defaulter under the first Six Clauses of Section 15, Regulation 7, 1799; when, if the defaulter be taken into custody, and the arrear demanded be proved against him, the proprietor might be allowed to resume the farm; and should not the defaulter be taken into custody, or attend after an ishtihar, similar to that directed in Section 3, Regulation 4, 1793, the proprietor might be called on to shew cause for ousting the farmer; and after an enquiry *exparte*, in the event of his proving the farmer to be in balance, might be empowered to resume the farm, and left to recover the amount of the arrear by a regular suit. The immediate inquiry which is made in summary suits, under the 7th Regulation of 1799, would prevent the proprietor from being a sufferer by this mode of proceeding; which would, at the same time, form a protection to the farmer against the present undefined power of the proprietor, and would be the means of preventing many serious affrays and breaches of the peace."

The following letter was written by order of the Sudder Dewanny Adawlut, in answer to the above, on the 12th November 1812:—"I am directed by the Sudder Dewanny Adawlut to acknowledge the receipt of your letter of the 30th September last, with the proceedings which accompanied it, relating to the complaint of RAMNATH RAI *vrs.* DOST MOHUMMUD KHAN, and to communicate to you the following

description, whether founded on pottahs or other written deeds and engagements; or on long prescription and established local usage. This regulation is not meant to define or limit the actual rights of any description of landholders or tenants; which can be properly ascertained and determined by judicial investigation only; but merely to point out in what manner defaulting tenants may be proceeded against in the event of their not paying the rents justly due from them; leaving them to recover their rights if infringed, with full costs and damages, in the established courts of justice, under the provisions for bringing such causes to a determination with the least possible delay."

rights of their under-tenants of whatever description.

This regulation not intended to define or limit the rights of any description of landholders or tenants; but merely to point out in what manner defaulting tenants may be proceeded against; leaving them to recover their rights if infringed, with costs and damages, in the courts of justice.

Eighth. "In like manner, in all other instances, the courts of

The courts of justice in all ca

ing orders and observations in reply. The court remark, that the orders of the late judge on the case appear to have proceeded upon a construction of Clause 7, Section 15, Regulation 7, 1799, according to which, if a landholder alleging his tenant to be in arrear, think fit to take upon himself to attach his tenure, the tenant is bound to give up his possession; and should the tenant deny that he is in arrear, and refuse to quit, the courts of justice are obliged, upon application from the landholder, to cause the tenant to be removed, and the tenure given up to the landholder, without any previous investigation into the justice of the landholder's claim. The court cannot acquiesce in this Construction of the clause in question, which, they observe, merely declares that a landholder may oust his defaulting tenant, without application to the courts of justice; and leaves entirely open the question, what course is to be pursued if the tenant shall deny that he is a defaulter, and incur the responsibility of refusing to quit his tenure. That question is to be resolved independently of the clause under consideration; and the court are clearly of opinion that under the circumstances supposed, the landholder must have recourse to his legal remedies of distraint, summary suit, or regular action. The court indeed regard the clause quoted, so far as it is applicable to such cases, to be merely declaratory of the right possessed by landholders, in common with all other claimants, to pursue their just demands by peaceable means; and to have been intended not to confer any powers on landholders, in addition to those which they previously possessed upon general principles and by the usage of the country; but to give confidence to landholders in the lawful pursuit of their just claims, and to discourage undue opposition on the part of the tenants, by satisfying the farmer that they would be in no danger of being treated as wrong doers, in consequence of the just and peaceable exercise of their powers; and making the latter sensible that in resisting rightful claims, until prosecuted in the courts of justice, they would render themselves liable to costs and damages. The court are accordingly pleased to authorize your proposed review of the late judge's order in the case. The court direct me to add that they trust the construction above given of Clause 7, Section 15, Regulation 7, 1799, will obviate the inconveniences which have been experienced from the opposite construction of it, upon which the late judge appears to have acted; and that the court will take into their future consideration the modifications of the clause in question which you have suggested."

their instances to determine the rights of every description of landholder and tenant, when regularly brought before them.

justice will determine the rights of every description of landholder and tenant, when regularly brought before them; whether the same be ascertainable by written engagements; or defined by the laws and regulations; or depend upon general or local usage, which may be proved to have existed from time immemorial; but it is hereby declared, that no part of the existing regulations was meant to deprive the zemindars and other landholhers of the power of summoning, and if necessary, compelling the attendance of their tenants for the adjustment of their rents; or for any other just purpose; or of measuring any land within their respective estates which may be liable to measurement under the conditions upon which such land may have been leased or held. For the just exercise of such rights and powers, the landholders are not required to make any previous application to the courts of justice; and any person opposing them therein will, on proof in the Dewanny Adawlut, be liable to full damages and all costs; besides being subject, for any breach of the peace, to prosecution and punishment in the criminal courts. But the landholders, their agents, and representatives, will be held answerable for any abuse, or unjust exercise, of the powers hereby declared to be vested in them; and on proof thereof by the party aggrieved in the Dewanny Adawlut, will be liable to full costs and damages; besides a fine to Government, if the case shall appear to deserve it. The execution of specific engagements, and delivery of receipts for payments, in all instances, will tend most to the security of the landholders and their tenants, in removing all doubt of the exact terms of agreement between them; or of the amount paid, and due; and the provisions in the regulations for this purpose are to be pointed out to them, by the courts of justice, as well as by the collectors, on every proper occasion, as their mutual safeguard against all undue demands on the one side, and evasions on the other, which the rules in force were expressly enacted to prevent."

Explanation that no part of the existing regulations was meant to deprive the landholders of the power of causing the attendance of their tenants, for the adjustment of their rent, or for any other just purpose; or of measuring any land liable to measurement under the conditions on which it may be tenanted.

Penalty for any opposition to the landholders in the just exercise of these rights.

Also for any abuse or unjust exercise of the above powers by the landholders, their agents or representatives.

Execution of specific engagements, and delivery of receipts for payments, as directed in the regulations, the best security both to landolders and tenants.

And to be pointed out to them by the courts of justice and collectors, on every proper occasion, as their mutual safeguard against exaction and evasion.

Reg. 7. 1799, Sec. 16, 17, 18.

2. *First.* "Persons confined under the Fifth Clause of the preceding

preceding rule, and desirous of bringing the demand upon them to a regular judicial investigation and decision in the Dewanny Adawlut, are at liberty to institute a suit against the landholder or farmer, at whose instance they may have been confined, for this purpose; and should the amount denied by them be found upon trial not to have been due, they shall receive a judgment for full costs and damages, against the party by whom it may have been claimed. They shall also be entitled to a similar judgment, with interest at the rate of one per cent per mensem, upon the amount paid by them, and found not to have been justly due from them, if they shall discharge the demand upon them with a view to obtain their release from arrest, or from subsequent confinement, under the preceding section; and shall afterwards, on a suit in the Dewanny Adawlat for recovery of the amount so paid, establish that it was not due from them at the time of the demand."

Reg. 5, 1800. Sec. 15, 16, 74 Reg. 28 1803. Sec. 33, 34, 35. Persons confined under the Fifth Clause of preceding rule may institute a suit in the Dewanny Adawlut.

Judgment to be passed if the arrear denied by them be found not due.

Or if the demand be discharged by them and afterwards found not due.

Second. "Proprietors and farmers of land, whose claims to arrears of rent may be rejected by the zillah judge, on the summary enquiry directed in the foregoing rule, are also at liberty to institute a regular suit in the Dewanny Adawlut for the recovery thereof; and if, on trial, the amount claimed by them shall be found to have been due when the summary judgment was given against them in the first instance, they shall be entitled to receive back any sums paid by them for costs or damages under such judgment; and to a decree from the zillah court for the arrears of rent due to them, with interest at the rate of one per cent per mensem, and full costs incurred by them, as well on the summary inquiry, as on the regular suit."

Claims rejected on the summary enquiry may be also sued for in the Dewanny Adawlut.

Judgment to be given if such claims be established on the regular suit.

Third. "That no doubt may be entertained whether the summary judgments, which the zillah courts are authorised to pass under the above rule, are open to appeal to the provincial courts of appeal, it is hereby declared, that they are not subject to appeal; as any person considering himself aggrieved by them can

Summary judgments under foregoing rule not open to appeal.

have

Institution fee, and fee on exhibits, not to be levied on summary processes, but rules concerning stampt paper applicable to them.

have his remedy by a regular suit in the Dewanny Adawlut. It is also declared that no institution fees, or fees upon exhibits, are to be levied on the summary processes authorized by the rule above mentioned; but the regulations in force relative to stampt paper are to be considered applicable to the processes in question, as in all other cases wherein stampt paper is required to be used, whether for original papers or for copies.*

Reg. 7, 1799, Sec. 19, 20. Reg. 5, 1800, Sec. 18, 19. Reg. 28, 1803, Sec. 36, 37. Rules in preceding section applicable to managers of estates of disqualified landholders, and of joint undivided estates, as well as to the officers of Government holding lands in attachment, or under a khas collection.

3. *First.* The preceding rules, "for the recovery of arrears of rent due to proprietors and farmers of land, are to be considered equally applicable to the managers of the estates of disqualified landholders, and of joint undivided estates; as well as to collectors or other public officers, holding lands in attachment for the purpose of adjusting the public assessment on them, or for any other purpose; or making a khas collection on the part of Government, where no settlement has been made with any proprietor or farmer."

And as far as applicable, extended to the agents of landholders and farmers, whilst in their service, or immediately after their resignation or dismission.

Second. They are also, as far as they can be applied, "declared to extend to the sudder and mofussil umlah, or native agents of every description, employed by the landholders and farmers in the management of their estates or farms, or collection of their rents. Any landholder or farmer having demands upon such agents whilst in his service, or immediately after their resignation or dismission from his service, whether for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts whilst in his employ, may proceed against them, for their arrest and confinement, in like manner as he is authorized to proceed against defaulting under-tenants; and the zillah and city courts, and native commissioners, are to take the same measures for the aid of the landholders and farmers in such causes, as they are directed to take for the recovery of arrears from defaulting tenants."

* This provision respecting the use of stampt paper has been since superseded by the rules stated under the head of *Stamp Duties*. See note to page 165.

4. First. The provisions above stated for the arrest of defaulting under-tenants, and their sureties, from whom arrears of rent may be due to proprietors and farmers of land, and for a summary inquiry to be made by the judges of the zillah and city courts, when the parties so arrested for arrears of rent may be brought before them, are, from the terms and objects of such provisions, evidently intended to be applicable only to recent arrears of rent, due in the course of the current year, or immediately after the close of it; and it is declared (in Section 4, Regulation 2, 1805,) "that the summary inquiry and process authorized by the above rules shall not be applied to any arrear of rent, or other demand, which may have been due more than a complete year, before the delivery of the petition of arrest, and application for such summary inquiry and process, as directed. Provided, however, that this restriction shall not be considered to preclude the judges of the zillah and city courts, (or their registers, or the collectors, to whom such inquiry may be committed by them,) from including, in the adjustment of recent arrears, in such cases, any arrear which may be found due beyond the period of one year, if the same shall appear equitable."

Reg. 2. 1805. Sec. 4. Explanation of provisions in existing regulations for summary process to recover arrears of rent.

Applicable to recent arrears of rent only.

And not to be applied to any demands due for more than a complete year, before the application for such process.

But judges, registers, and collectors, in the adjustment of arrears, in such cases, may include arrears due for more than one year, if it appear equitable.

Second. "The rule of limitation prescribed by the above clause is also extended to applications for summary process by landholders and farmers, against their agents employed in the management of ther estates and farms, or in the collection of their rents; under the provisions which authorized such process for the arrest and imprisonment of the agents of landholders and farmers, whilst in their service, or immediately after the resignation or dismission of agents of the above description, on account of demands for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts."

Limitation in above clause extended to applications for summary process by landholders, and farmers, against their agents, under existing regulations.

The only further rule which appears to call for notice, under the present head, is to the following effect:—"It being a frequent practice

Reg. 7. 1799. Sec. 12. Reg. 5. 1809. Sec. 12.

Reg. 28, 1803. Sec. 38. The courts of justice to discourage and punish unfounded complaints against persons attaching property of officers employed in collecting the rents; as well as their being summoned as witnesses, merely to create embarrassment and delay in the collections.

practice with the under-tenants, to lodge unfounded complaints in the fonjdarry adawlut against persons attaching their property, as well as against the whole of the officers employed in collecting their rents; and likewise to cause their being summoned as witnesses in causes, with the merits and circumstances of which they are totally unacquainted, for the sole purpose of creating embarrassment and delay in the collection of the rents; the courts of justice are required at all times to discourage and punish such culpable practices, as far as the powers rested in them by the regulations may admit. Section 10, of Regulation 9, 1793, (corresponding with Section 10, Regulation 6, 1803, for the upper provinces,) * is to be strictly enforced in all cases of litigious and unfounded complaints, of the nature herein referred to, before the magistrate; and in instances of the zemindarry officers, or others employed in the collections, being improperly summoned, as witnesses, in the civil courts, the party who summoned them should be compelled, under Section 6, Regulation 4, 1793, (corresponding with Section 7, Regulation 3, 1803, for the upper provinces) † to make them such allowance for their expenses as may be sufficient for their full indemnification. It is further hereby declared, that if any person shall wantonly, and without good cause, be the means of summoning to the courts of justice, civil or criminal, the principal officer, or any officer, engaged in collecting the rents, of any zemindar, talookdar, or other landholder, or farmer of land; and a loss of rent, or other evident damage, shall be sustained by the landholder, or farmer, in consequence of such wanton and unnecessary summons; an action shall lie against the party who caused the summons, for such loss or damage; and on proof thereof in the Dewanny Adawlut, or before the native commissioners for the trial of civil suits, if the case be cognizable by them, the party injured shall be entitled to recover the amount with all costs of suit."

Section 10, of Regulation 9, 1793, and Section 6, of Regulation 4, 1793, to be strictly enforced in such cases.

Compensation to be adjudged also, with all costs of suit, for any loss or damage sustained by the wanton and unnecessary summons of any officer engaged in collecting the rents.

* See vol. I. page 432.

† Vol. I. page 70.

3. SPECIAL

3. SPECIAL PROVISIONS FOR EUROPEAN TENANTS.

What Europeans included in these provisions.

THESE are confined to Europeans, cultivating Indigo in the province of Benares. The general restrictions against the possession of land, beyond the limits of Calcutta, by Europeans, without the sanction of the Governor General in Council, and the measures to be adopted by the collector of the district, for ascertaining the exact quantity of land, when an European may be permitted by Government to purchase, or occupy land, situate without the town of Calcutta, have been already mentioned.* But for the reasons stated in the following preamble to Regulation 33, 1795, the subsequent provisions in that regulation were enacted to allow Europeans, in the province of Benares, to hold leases of land for the cultivation of Indigo, during the period of the decennial settlement in that province, viz. till the end of the Fussily year 1206; after which they were permitted only to hold land, not exceeding fifty begahs, for dwelling houses and manufacturies; providing themselves with Indigo weed, as in the lower provinces, by engagements with the ryots, or other tenants of land, who might agree to deliver it at their places of manufacture.

Objects of Regulation 33, 1795.

Preamble to that regulation.

"IT has long been an established rule, that no European shall hold lands in the interior parts of the country without the express permission of Government; and an adherence to this rule was considered particularly necessary in the province of Benares, where the reasons, on which it is founded, apply with additional force. Accordingly, when Government were informed that the two first projectors of works for the manufacture of Indigo in that province had, for the purpose of facilitating the raising of the plant, farmed one or more talooks, the Resident was immediately directed to dispossess them of such farm or farms; but in consideration of the heavy expense which they had incurred, and as it was presumed that the extension and cultivation of Indigo, under proper regulations, might prove beneficial to the country at large, they were permitted, in the beginning of 1790, to continue their

* Vol. I. page 177: and Vol. II. page 127.

their manufacture, and to make advances to such ryots as might be willing to cultivate, and furnish them with the Indigo plant, as well as to hold land upon pottah from the zemindars and farmers, in the same manner as other ryots, for the purpose of cultivating the plant themselves. This special permission, granted in consideration of the peculiar circumstances of these two manufacturers, who had also entered on the business with permission of Government, was afterwards erroneously construed as extending to all Europeans who might undertake the cultivation or manufacture of Indigo in the province of Benares. Between the last mentioned period, and the beginning of the year 1794, sundry other British subjects obtained and held grounds for the cultivation of Indigo, without the knowledge or sanction of Government. The inconveniencies and evils, which arose in consequence, at length attracted the attention of Government; and on the 7th of March, 1794, the Governor General in Council ordered, that Europeans should not be allowed to acquire any landed property in Benares, exceeding what might be sufficient for the erection of houses or buildings for carrying on manufactures; nor be competent to hold a greater extent of land upon lease, than might be sufficient for the same purposes. This order affecting materially the interests of the Indigo planters, who had established themselves in the province without the sanction of Government; they presented a memorial to the Governor General in Council, setting forth the circumstances of their situation. Although the leases which they had procured for ground for the cultivation of the Indigo plant, from having been obtained without the permission and sanction of Government, were liable to immediate résumption; the Governor General in Council, on the supposition that many of these individuals, from not being prohibited in the first instance from holding the lands, might have been induced to believe that they were not deviating from public regulations; and adverting also to the heavy loss which they might have sustained, had they been compelled to relinquish the lands immediately; resolved, on the 23d of May 1794, to allow them the term hereafter specified for reaping

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the full benefit of any lands that they might have actually sown with Indigo, and for enabling them to make the necessary arrangements with the ryots, or other individuals, to furnish them with the weed, in the same manner as it is procured by the planters in Bengal. These rules, with the subsequent additions made to them, are now enacted into a regulation."

Section 2. Prohibition of further leases of land to Europeans.

2. "Conformably to the restrictions alluded to in the preamble to this regulation, on the 20th March 1794, a circular order was issued to the aumils, forbidding any more ground to be leased to natural born British subjects, or to other Europeans, or conveyed to them by sale, or otherwise, with the sanction of Government, to be first had and obtained. Lest the natives should misconstrue, and make an improper use of, this regulation, it was at the same time ordered, that the Europeans were not to be dispossessed of what ground they then occupied, without the resident's sanction; and to enable him to pass his determination in all such cases, an account was ordered to be prepared of all such lands in the occupancy of Europeans."

Section 3. Prohibition against receiving the public revenue through Europeans.

3. "On the 22d of March 1795, the resident notified to all the aumils, by a circular order, that as it was contrary to the intentions of Government that any part of the public revenue should be paid, (excepting in aumany villages,) through the medium of Europeans, either for the ground in which they cultivated the Indigo, or on any other account, they (the aumils) were prohibited from receiving the revenue through any other channel than that of the native zemindars, or farmers, holding pottahs from Government; leaving it to them to settle with those who were Indigo planters, according to the existing engagements between the parties."

4. *First.* "On the grounds set forth in the preamble to this regulation, and with a view to obviate or provide against the numerous complaints, which the planting and manufacturing of Indigo

by British subjects had occasioned; the rules contained in the following clauses were passed by Government on the 23d of May, and 4th of July, 1794."

Leases of land to European Indigo planters of a date not subsequent to the 20th of March 1794, to be allowed to remain in force until the expiration of the period of the decennial settlement. All leases of a subsequent date declared invalid.

Second. "That all existing leases of lands for the purpose of cultivating Indigo, actually and *bonâ fide* obtained before the 20th of March 1794, by any European, be allowed to remain in force, until they expire, provided the term of them shall not extend beyond the period of the decennial settlement."

Third. "That all leases obtained directly or indirectly by Europeans, either in their own names, or those of others, since the 20th day of March 1794, be declared null and void; and that the lessees be immediately dispossessed."

Penalty enacted in prohibition of such posterior leases.

Fourth. "That in future no new leases for lands shall be entered into, directly or indirectly, by an European; and that any such leases shall be void, and the lessee not only be dispossessed, but be liable to be ordered immediately to Calcutta."

Exception with respect to ground to construct Indigo works or dwelling houses on.

Fifth. "After the expiration of the last year of the decennial settlement, no European shall be permitted to rent or hold any land, directly or indirectly, either in his own name, or that of others. This rule, however, is not to extend to land not exceeding fifty begahs, which Europeans shall be permitted to purchase or rent, for the purpose of erecting dwelling houses, or buildings, for carrying on manufactures, provided they previously obtain the sanction of the Governor General in Council, through the resident, to purchase or rent the land."

Prohibition against Europeans or their servants, seizing *bhoosa* or any other article.

Sixth. "If any native servant, or dependent of any British subject, or other European, shall intercept on the road, or otherwise unduly seize, any *bhoosa*, or other property, he shall, on the party injured complaining to the resident, and on the latter's seing sufficient ground for such a mode of procedure, be committed by him for trial for such violence to the foujdary court; and besides suffering such punishment, (in cases of conviction,) as the court may inflict, such servant shall be thereon rendered incaple of entering again, within the district, into the service of any British born subject, or other European, in any capacity whatever;

whatsoever; and in all cases of undue seizure of *bhoosa*, or other property, as aforesaid, by any British subject or subjects, or by his or their servant or servants, on their behalf, it shall be the duty of the resident, on the receipt of any complaint to this effect, to enter on a summary inquiry into the circumstances of the case; whereupon, every such British subject shall strictly, and without reserve, conform to any requisition or order that he (the resident) may thereon issue, for full restitution of the *bhoosa*, or other article, so detained, to the proper owner; as well as for paying to the latter such indemnification and damages as the resident may award."

Against British subjects pressing artificers, and other workmen or labourers into their service.

Seventh. "In the event of the servants of any British subject attempting to press into, or forcibly carry away for their master's service, any artificers, workmen, or labourers, they shall be liable, for every such offence, to be themselves apprehended by the proper local officers of Government, and brought thereon to such trial, or punishment, as the laws of the country point out; besides, being in all cases, where conviction shall ensue, rendered incapable of acting again in the service of any European."

Against the felling of trees by Europeans.

Eighth. "No British subject shall be permitted to cut down any trees, unless the owner shall have previously and voluntarily sold them to him, and executed to him a writing, attested by two credible witnesses, expressing his consent to the sale of the trees, and the price of them."

European Indigo planters to keep vakeels to answer to complaints preferred against them.

Ninth. "The regulations of the 7th March 1794, prohibiting all epistolary correspondence between the resident, or the native judges of the several courts, and parties in suits or complaints brought before them, it is directed, with a view to facilitate the resident's enquiring into and settling the frequent and various complaints that are preferred in respect to the Indigo cultivation and manufacture, that the several persons concerned in it shall at all times have in attendance, in the resident's cutcherry, well informed vakeels on their respective parts, properly authorized and instructed to deliver, in the hindoovee tongue, competent answers to, and explanations of, such allegations as may from

time

time to time be brought by any of the natives against their constituents, or their servants."

Europeans conniving at improper acts by their servants, to be held responsible.

Tenth. "No European shall seize or confine an individual ryot, or other person, or do any of the acts which their servants are prohibited doing by these regulations; and where it shall be proved to the satisfaction of the resident, that the servants of any such British subject have done any such acts by the orders, or with the connivance or knowledge of their masters, the latter shall be held responsible for the act, and shall be considered to have committed a breach of the regulations."

European Indigo planters to bind themselves to the observance of these regulations.

Eleventh. "Every European Indigo planter shall sign, and personally engage for the adherence to, the above articles, or any other regulations that may be hereafter enacted respecting them, under the penalty of five hundred rupees for the first offence, and of being sent to Calcutta for the second."*

No European to be allowed to reside without the permission of Government in the zemindary of Benares.

Twelfth. "No European is to take up his abode in the zemindary of Benares, without the sanction of the Governor General in Council. The resident is to send any person guilty of a breach of this rule to Calcutta."

Section 5. Encouragement to be given to Europeans in procuring Indigo by contracts.

5. "The resident was at the same time desired to afford every encouragement to Europeans in procuring the Indigo plant to be raised for them, at a given rate for every begah, or bundle, by contract, with the ryots or aumils; with this caution to be observed in regard to the latter, that they were not to be permitted to avail themselves of their official influence, as aumils, to compel ryots or any individual, to plough, or work upon the lands against their inclination, or to exercise any undue authority whatever in the management of the concern."

Section 6. Notification to the natives, of Government's having no immediate concern in the planting or manufacture of Indigo.

6. "On the 1st July 1794, the aumils and the people of the country at large were furnished with a translation of the preceding rules, and at the same time apprized, that Government had

* On the 19th April 1798, the zillah and city judges were furnished with a form of the penalty bond, to be executed in pursuance of this clause.

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no immediate concern whatever in the provision of the Indigo; and that the above measures had been adopted solely upon the ground, that the introduction of a new and valuable article of produce could not fail to be productive of advantage both to the cultivators and proprietors of the soil, as well as to the merchants; provided the trade in it could be conducted without prejudice to individuals, or to the good order and government of the country."

Section 7. Further description of grounds, engaged by Europeans before the 20th March 1794. which are to be allowed.

7. *First.* "On the promulgation of the prohibition in Section 2, it was set forth, on behalf of several Europeans, that previous to the date thereof, they had obtained fair and voluntary engagements from sundry zemindars and others, for a certain extent or number of begahs for the cultivation of Indigo; and therefore requested that orders might be issued for the ground in question being measured out, and delivered over to them, for the term allowed of under Clause Second, Section 4; which the resident did accordingly admit of, and order on the 7th of June 1794; in as far as the land thus found to be fairly contracted and engaged for, previous to the order of prohibition, might not be liable to all or either of the grounds of objection in the following clauses, the existence of which was to bar the European's possession of the lands in question."

If the grant thereof shall have been fairly made by persons duly authorized.

Second. "Art. 1. The engagement or contract, for the delivery of the ground to the Europeans, must issue and be from the party or parties holding the pottahs of Government; and not merely from their putteedars; as the subordinate partners of such pottahdars are not authorized to introduce, without the concurrence of the Government's pottahdar, any ryot, and still less a natural born British subject, into the possession or cultivation of any part of the territory included under such pottah."

Such grants not to be for whole villages.

Third. "Art. 2. In consideration that the Governor General in Council has prohibited any British subject from holding farms of revenue, and as in fair construction, any pottahdar of Government, making over all the territory under the pottah to any British subject, would be equivalent to such a taking in farm, as

is meant to be forbidden; therefore no pottahdar is out of the grounds included under such pottah, to be allowed to make over to any European a larger proportion than shall be suitable to the moderate idea of a ryotty tenure."

Not to affect the grounds in the occupancy of chupperbund ryots without their consent.

Fourth. "Art. 3. A pottahdar of Government is not to be deemed competent to grant to any natural born British subject, for the cultivation of Indigo, the grounds of any chupperbund and khoodcasht ryot, unless on the condition of such settled ryot's razeenamah being previously delivered into the office of the resident, under the attestation of the canongoes."

Similar rules for the observance of the aumils and canongoes, where the lands are amauny.

Fifth. "Art. 4. As the aumil is in the amauny, or unsettled, villages of each pergunnah, in the stead and place of the pottahdar of Government, such aumils are, as far as regards the granting of any grounds therein to any European for the cultivation of Indigo, to consider themselves as bound to be governed by the same qualifications, restrictions, and conditions, as are provided and specified in the three preceding clauses and articles, for the guidance of the pottahdars in similar instances; nor is any aumil to make such grants out of the *cutcha* lands, without the privity and consent of the canongoes, who are to attend in every such instance to the due and full observance of the requisitions thus made."

Sixth. "The notification comprehended in this section, was confirmed by the Governor General in Council, under date the 4th of July 1794."

Section 8. Terms notified on which the natives may contract with Europeans for the raising of the Indigo plant.

8. *First.* "On the 12th of July 1794, a circular notification was published by the resident, announcing to the natives, that the Governor General in Council had no objection to, but rather wished to encourage their, entering into contracts with Europeans, to raise for them the Indigo plant, and to deliver it to them when ready to be cut and transported to their manufacturing houses, subject however to the conditions in the clauses undermentioned."

What persons among the natives may thus contract.

Second. "That only the pottahdars of Government (or in amauny lands the aumil) be competent to enter into such grants with

with Europeans; which condition has however been since modified, as under the next section."

Third. "That even pottahdars of Government shall not be competent to apply the grounds occupied in husbandry by chupperbund or khoodcasht ryots, not in balance as to their rent, to raise Indigo on, without the latter's full and free consent."

Exception in respect to the grounds of chupperbund ryots.

9. *First.* "But on a representation being made by some of the Indigo planters, that the prohibition in Clause Second, Section 8, would prove highly prejudicial to them, and particularly expose them to undue exactions on the part of the pottahdars of Government; at the same time that they offered to hold the produce of the Indigo crops at all times bound for the payment of the amount of the contract rates, for which they should have agreed, so as always to prove an adequate security to the pottahdar or pottahdars of Government, for the jumma of the part of his or their zemindary or farm planted with Indigo; Clause Second Section 8, was, with a view to the promotion and general encrease of cultivation, declared, on the 22d July 1794, to be repealed, so far as that Europeans were pronounced at liberty to enter into contracts on the above conditions with the chupperbund or khoodcasht ryots, or with putteedars whose puttees might be distinct and separate, and have been divided off from the pottahdar's part of the estate, for cultivating, sowing, and rearing, the Indigo plant by their own labor, within their respective limits of cultivation, in the same manner as is allowed to pottahdars, under Section 8."

Section 9. In what instances putteedars and chupperbund ryots may contract with Europeans for the raising of Indigo.

Second. "When such Indigo cultivation, as is described under the first clause of the present section, shall take place in spots where hitherto the rent of the land, payable by the ryot, has been the moiety or other proportion of the produce; the canongoes shall, in all such cases, fix the money assessment, which is to be, on an Indigo crop, paid by the ryot, or joint putteedar, to the pottahdar of Government; whilst the Indigo manufacturers are to pay to either of the two latter, by whom the ground may be possessed,

Canongo to fix the money rent on Indigo culture, in cases where it has heretofore been regulated by a division of the produce.

possessed, the amount for which they shall have contracted."

Rules in this section passed by way of experiment and declared liable to be repealed if found unsuitable.

Third. "The rules contained in this section were declared by the resident, to the parties soliciting them, to be passed merely by way of experiment; and liable to such future amendment or entire revocation, as might hereafter appear necessary, or as Government might at any time direct."

Section 10. Stated authorities and duties of the resident transferred to the judges of the city and zillah courts.

10. "The authorities vested in, and duties required to be discharged by, the resident, under the preceding sections, are to be considered as transferred, from the date of their entering respectively into office, to the judges of the city and zillah courts; from whose decisions appeals are to lie, in all cases allowed by the regulations."

4. *PROVISIONS FOR TENURES OF INVALIDED SOLDIERS.*

Resolutions of Government under date the 18th February 1789, respecting grants of land to invalided soldiers.

WITH a view to relieve the Company from part of the expense attending the payment of pensions in money to their native troops, on the invalid establishment; and at the same time afford to their native officers, sepoys, and lascars, no longer capable of being employed in active service, a certain and satisfactory means of subsistence, with a suitable provision for their families; the following resolutions were passed by the Governor General in Council on the 18th February 1789.

First. "That such invalid native troops now at Monghyr, and all who shall hereafter be invalided, as may be desirous of receiving grants of waste land in lieu of the pay allowed them by Government, upon taking a final discharge from the service, shall be entitled to the same in the following proportions, according to their rank:

Commandants of Infantry and Russuldars of Cavalry,	600 begahs.
Subadars of ditto, and 1st Jemmadars of Cavalry,	400 ———
Jemmadars of do. and 2d Jemmadars of Cavalry,	200 ———
Havildars of ditto, and 1st Duffadars of Cavalry,	120 ———
Naiks of ditto, and 2d ditto ditto,	100 ———

Sepoys

Sepoys and Troopers, 80 begahs.

LASCARS.

Serangs as Jemmadars, Tindals as Havildars, Cassobs as Naiks, Lascars as Sepoys."

Second. "That the lands be granted either in Sircar Behar, Shahabad, or Rotas, or the zemindarry of Benares, and in such villages as each individual may point out."

Third. "That should any objection occur to the resident at Benares, or the collectors of the above districts, to granting waste land to any individual in the village which he may fix upon, they allot lands to him in some of the villages most contiguous thereto, and to the granting of which no objection exists."

Fourth. "That waste lands be granted to the invalids in other districts, exclusive of those abovementioned, in such particular instances as the Governor General in Council may think proper."

Fifth. That the resident at Benares, and the collectors of Behar and Shahabad, be directed to make it a rule to select, as far as may be in their power, such tracts of waste land for the invalids, as may be brought into cultivation with the least difficulty, and at the smallest expense; and the quantity of which may be such as to afford a produce adequate to the labour of the tillage; and that they be contiguous to parts of the country now in a state of cultivation, in order that the invalids may have an opportunity of procuring with greater facility such assistance as may be requisite for enabling them to establish themselves upon their lands."

Sixth. "That the original grantee shall hold the lands allotted to him rent free for life, without being subject to any tax or demand whatever."

Seventh. "That the sunnuds for the lands so granted in the zemindarry of Benares be made out under the seal of the Rajah, with a perwannah of confirmation under the seal and signature of the resident; and those in Behar, Rotas, and Shahabad, under the official seal and signature of the collectors of those districts;

and that the resident and collectors abovementioned be respectively required to keep a register of all such grants; and that the former be directed to transmit copies thereof annually to the Governor General in Council; and the latter to the Board of Revenue."

Eighth. "That upon the death of the original grantee, his lands be continued to his heirs at law at a fixed jumma, to be assessed in Benares by the resident with the consent of the Rajah, and by the collectors aforesaid in their respective districts, upon an estimate of the actual net produce, after deducting one-tenth therefrom to be annually paid to the zemindar as maliconnah by the mocurrery holder, who shall henceforward be considered upon the same footing as other persons in the province holding lands at a fixed rent."

Ninth. "That the resident, and the collectors abovementioned, having fixed the rent payable to Government, and the amount of the zemindar's maliconnah, as directed in the preceding article, shall cause mocurrery sunnuds to be drawn out and authenticated in the mode prescribed in the seventh article, in the name of the heirs of the deceased; who shall accordingly hold the said lands in perpetuity, so long as they shall continue to discharge the rent and maliconnah with which they may be so assessed."

Tenth. "That if the original grantee shall die within five years from the date of his grant, his heirs shall continue to hold the lands rent free, until the said period of five years from the date of such grant shall have elapsed; at the expiration of which the lands shall be assessed, and held by them as directed in the two preceding articles."

Eleventh. "That should any of the mocurrerydars aforesaid omit to discharge the amount of the rent of Government, and the maliconnah payable to the zemindar, their mocurrery leases, with the rights and privileges thereto annexed, be sold to the best bidder, for the liquidation of the amount of the demands against them."

Twelfth. "And in order that the men, who may hereafter prefer this provision to the Boglepore establishment, may be the better

better enabled to provide themselves with the implements of husbandry, and means of cultivating the lands assigned to them, it has been further agreed to grant to the several ranks a gratuity in money, in the following proportions :

To each rank entitled to receive,		600	begahs,	150	St. Rs.
Ditto	ditto,	400	ditto,	100	ditto.
Ditto	ditto,	200	ditto,	50	ditto.
Ditto	ditto,	120	ditto,	30	ditto.
Ditto	ditto,	100	ditto,	20	ditto.
Ditto	ditto,	80	ditto,	15	ditto.

Thirteenth. With a view to obviate any objections which the landholders might entertain to the allotment of waste lands to invalids, it was added, (on the 24th December 1790) " that the whole amount of the fixed jumma to be assessed upon such lands after the death of the original grantee, agreeable to the regulations of the 18th February 1789, be declared to belong to the proprietor of the village in which such lands may be situated; and that he be not subject to any additional demand on the part of Government, on account thereof, during the term of the engagements that may exist between him and Government, at the time that the lands so granted may become liable to the payment of such jumma."

Additional resolution passed on the 24th December 1790.

The above resolutions were re-enacted, in Section 33, Regulation 43, 1793, for the lower provinces, and in Regulation 43, 1795, for Benares; with a restriction, in Section 4, of the latter regulation, that no provision in land should be granted in future to invalids in that province. Such grants were continued in zillahs Boglepore, Behar, Shahabad, Sarun, and Tirhoot, under a code of rules passed on the 25th February 1793, and re-enacted in Regulation 43, 1793; under Regulation 56, 1795, " for allowing the heirs of invalids, to hold their land rent free, to the expiration of the tenth year from the date of the original grantee's being put in possession, in case of his dying within ten years from such

Above resolutions, re-enacted in Regulations 43, 1793, and 43, 1795.

Grants continued, under Regulations 43, 1793; 56, 1795; 1, 1804; and 11, 1808.

such date;" Regulation 1, 1804, "for the better management of the invalid jageerdar establishments;" which rescinded the former provisions in Regulations 43, 1793, and 56, 1795; (except the Resolutions of 18th February 1789, and 24th December 1790, above cited;) and extended the establishment of villages for invalids to zillah Chittagong; and under Regulation 11, 1808, "for the adjustment of the rent payable by the heirs of invalid jageerdars;" in explanation of a rule prescribed in Regulation 1, 1804. But for the reasons stated in the following preamble to Regulation 2, 1811, the grant of lands to invalided native soldiers was discontinued on the 5th April of that year; and provision made for their support by a fixed rate of pay, proportionate to their respective ranks, for life, as stated in the subsequent sections of this regulation.

But discontinued in 1812, for reasons stated in preamble to Regulation 2, of that year.

Preamble to Regulation 2, 1811.

"By the rules in force for the maintenance of invalid native commissioned and non-commissioned officers, who may not be fit for garrison duty, an option is allowed to such officers of receiving lands on the jageerdar establishment, and of enjoying at the same time the reduced pay of their respective ranks, or of retiring on that pay to any part of the Company's territories. In assigning lands for the support of the invalid commissioned and non-commissioned officers, it was of course the intention of Government to render the latter part of their lives as comfortable as possible; but material inconveniences have arisen from that arrangement, both to the Government and to the invalids themselves, and their families. A difficulty has frequently occurred in obtaining the lands required for their support, and considerable delay has consequently been experienced in assigning to them that provision. The lands, when purchased and rendered fit for tillage, being ordinarily situated in the vicinity of other lands overgrown with extensive forests, have necessarily proved in many instances very insalubrious; the habits, age, and infirmities of the invalid soldier disqualify him, in a great measure, for the labour and pursuits of an husbandman; the tendency of the existing arrangements to draw his immediate

mediate connections from the villages, in which they had been accustomed to reside, to places recently reclaimed from jungle (frequently, as already noticed, extremely insalubrious) has had a prejudicial influence on the comfort and health of that class of people. For these and other reasons, connected with the happiness of the native soldiery, and the convenience of the public service, the Vice President in Council has been pleased to pass the following rules, to be in force from the period of their promulgation, throughout the territories immediately dependent on the presidency of Fort William.

2. "The provisions contained in Regulation 1, 1804, which declare, that all native commissioned and non-commissioned invalid officers, not being fit for garrison duty, shall be allowed the option of being transferred to the jageerdar establishment, and Section 20, Regulation 11, 1806, by which it is enacted, that native commissioned and non-commissioned officers, who may be transferred to the jageerdar establishment, shall be entitled to the reduced pay of their rank, at the established rates, in addition to the benefits which they may derive from the lands assigned to them, are hereby rescinded."

Section 2. Certain provisions in Regulation 1, 1804, and Regulation 11, 1806, rescinded.

3. *First.* "Commissioned and non-commissioned native officers, who may be invalided subsequently to the date of this regulation, shall not be deemed entitled to lands on the jageerdar establishment: but such of those officers, as shall not be considered fit for garrison duty, as well as privates not fit for such duty, shall be entitled to an advance of six months invalid pay of their respective ranks, according to the rates hereafter specified, with permission to retire to any part of the Company's territories which they may prefer."

Section 3. Native officers invalided after the date of this regulation, not to be entitled to lands; but both officers and privates unfit for garrison duty to receive six months invalid pay, with permission to retire to such part of the Company's territories as they may prefer.

Second. "All commissioned and non-commissioned native officers, as well as privates, who may be invalided subsequently to the date of this regulation, and who may not be fit for garrison duty,

Such officers and privates entitled to draw the reduced pay of their ranks for life.

duty, shall be entitled to receive for their future support, during their lives, the pay of their respective ranks established by the orders of Government., under date the 15th February 1811, as follows.

Rates of pay of invalids of the regular corps.

Rates of pay of invalid officers and privates of the regular corps, comprising cavalry, golundauz, infantry, miners, pioneers, gun lascars, and ordnance drivers.

Subadars, ...	Sonat Rs.	25	0
Jemadars and serangs, ...		12	0
Havildars, naicks, native doctors, tindals, and half cast drummers, ...		7	0
Troopers, sepoys, drummers (not half cast) trumpeters, pioneers, miners of 1st class, and gunlascars.		4	0
Ordnance drivers, miners of 2d class, farriers, bheestees, syces, grasscutters, and quarter master's lascars.		3	0

Rates of additional pay on account of wounds or infirmities.

Rates of additional pay to persons of the description included in the above statement, who may have lost a limb, or become blind on service, or have been reduced to a helpless state by wounds received on service.

		Additional Pay		Total.	
Subadars,	St. Rs.	15	0	40	0
Jemadars and serangs, ...		8	0	20	0
Havildars, naicks, native doctors, tindals, and half cast drummers, ...		5	0	12	0
Troopers, sepoys, drummers (not half cast) trumpeters, pioners, miners of 1st class, and gun lascars, ...		3	0	7	0
Ordnance drivers, miners of 2d class, farriers, bheestees, syces, grasscutters, and quarter master's lascars		2	0	5	0

Rates of pay to invalids of the Ramghur battalion and hill rangers.

Rates of invalid pay to invalids from the Ramghur battalion and hill rangers, who may be admitted to the pension establishment.

Ramghur

Ramghur battalion, and Hindoostanees of the hill rangers.

Subadars,	....	St. Rs. 18	0
Jemadars,	....	9	0
Havildars, naicks, and native doctors,		5	8
Sepoys, drummers, and bheestees,		3	8

Hill men of the hill rangers.

Subadars,	....	7	0
Jemadars,	....	4	0
Havildars, and naicks,	....	3	0
Sepoys, drummers, and bheestees,	....	2	8

Rates of additional pay to persons of the description included in the foregoing statement, who may have lost a limb, or become blind on service, or have been reduced to a helpless state by wounds received on service.

Rates of additional pay on account of wounds or infirmities.

Ramghur battalion and Hindoostanees of the hill rangers.

		Additional Pay.		Total.	
Subadars,	..... St. Rs.	15	0	33	0
Jemadars,	....	8	0	17	0
Havildars, naicks, and native doctors,	....	5	0	10	8
Sepoys, drummers, and bheestees,	.....	3	0	6	8

Hill men of the hill rangers.

Subadars,	....	7	0	14	0
Jemadars,	....	4	0	8	0
Havildars and naicks,	....	3	0	6	0
Sepoys, drummers, and bheestees,	....	2	8	5	0

Rates of invalid pay for all invalids of provincial corps, who may, under the rules established in the Military Department, be admitted to the pension establishment.

Rates of pay of invalids of the provincial battalions admitted to the pension establishment.

Subadars,	.... St. Rs.	15	0
Jemadars,	....	7	8
Havildars, naicks, and native doctors,		5	0
Drummers and sepoys,	....	3	0

Rates of additional pay to persons of the description included in the foregoing statement, who may have lost a limb, or become blind

Rates of additional pay on account of wounds or infirmities.

blind on service, or have been reduced to a helpless state by wounds received on service.

		Additional Pay.		Total.	
Subadars, ...	St. Rs.	10	0	25	0
Jemadars, ...		5	0	12	0
Havildars, naicks, and native doctors, ...		4	0	9	0
Drummers and sepoys		2	0	5	0

These rates not applicable to persons to whom reduced invalid pay had been granted prior to the 15th of Feb. 1811.

Third. " The rates specified in the preceding tables are not to be considered applicable to persons to whom reduced invalid pay had been granted previously to the date of the orders of Government above noticed, viz. the 15th of February 1811."

Rules in Sections 23, to 26, Regulation 1, 1804, to be strictly observed in issuing such pay.

4. " The rules contained in Sections 23, 24, 25, and 26, Regulation 1, 1804, shall be strictly observed in issuing the pay to the persons who may become entitled to that provision, under the present regulation ."

Sections of Regulation 1, 1804, confirmed by Regulation 2, 1811.

Section 23. Native commissioned, non-commissioned and private invalids not admitted on the jageerdar establishment, but admitted on the pension establishment, to be furnished with a descriptive roll addressed to the collector.

The Four Sections of Regulation 1, 1804, confirmed as above, are the following—§. 23. " Every native commissioned, non-commissioned, and private invalid, not admitted on the jageerdar establishment, but admitted on the pension establishment, shall, on being allowed to retire on reduced pay, receive a descriptive roll, addressed to the collector of the district, specifying the name age, and height, of the invalid; the place at which he was born; as well as that at which he may choose to reside; the period of his services; and in what regiment or regiments he may have served; his wounds, if he shall have received any; and any corporal peculiarities, or marks, tending to identify his person: copies of these rolls shall be regularly forwarded to the military auditor general." §. 24. " The half yearly or annual presentation of this roll to the collector of the district, to whom it is addressed, shall entitle the invalid pensioner to receive the reduced pay of his rank; and on receipt of the roll, after his death, the collector shall pay to his heirs, or other person properly empowered to receive

Section 24. The presentation of such roll to the collector shall entitle the invalid pensioner or his heirs to his reduced pay to the time of his death.

receive it, the amount of the arrears which may have been due, at the time of his decease." §. 25. "At every half yearly, or annual payment, the invalid pensioner shall give a receipt for the amount of pay then due to him; which shall be transferred by the collector to the Military Auditor General for audit; by whom it shall be returned to the collector, and received as a voucher, by the Accountant General, to be charged in the Military Department. After the decease of an invalid pensioner, the collector shall transmit his descriptive roll to the Military Auditor General; having first noticed upon it the amount of arrears paid to the heirs of the deceased." §. 26. "Whenever a voucher of a pensioner's existence shall not be furnished within twelve months from the date of his last receipt of pay, he shall be struck off the roll of the collector, and shall not be again admitted without the orders of Government."*

Section 25. The invalid pensioner to execute a receipt for each payment, which the collector is to transfer to the Military Auditor General, for audit.

On the death of the pensioner the collector to transmit his descriptive roll to the same officer; noticing the amount paid to the heirs of the deceased.

Section 26. Pensioner to be struck off the list when the voucher is not produced within twelve months.

UNDER

* The provisions of Regulation 12, 1814, *for securing to the invalid native officers, soldiers, and others, the reduced pay or pension granted to them for their support on retiring from the service*, have been already stated, under the general head of *pensions*; (vol. II, page 562;) but as immediately connected with part of the present section, it may be useful to insert them again in this place, with the preamble, as follows—"Whereas it is just and expedient that the reduced pay or pensions of invalid native officers, soldiers, and other persons, granted as a provision to worn out and disabled Military and other public servants on their retirement from the service of the state, should be strictly and invariably applied to the purpose for which they have been granted by the beneficence of the Government, that is to say, to the support of the veteran, or old and infirm servant of the state, and not be liable to be diverted from that purpose for the discharge of previous debts, or in consequence of subsequent bargains or agreements, which the artifices of designing persons, practising on the simplicity of the invalid soldier and pensioner, may induce him to enter into; whereby the beneficent and charitable views of the Government are defeated, and the money of the state, which the liberality of the Government bestows on the veteran and worn out public servant, for his support and maintenance in old age and infirmities, is diverted to the use and benefit of persons who have no claim upon the state, nor right to be paid out of its resources; therefore the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation. §. 2. The reduced pay or pension, however denominated, of invalid officers and soldiers and retainers of the army, being persons amenable, by reason of their birth in India, or for other cause, to the jurisdiction of the courts of Dewanny Adawlut, or any other monthly or annual pecuniary allowance granted on retirement from the public service, by the authority of the Governor General in Council, to any person amenable to the jurisdiction of the courts of Dewanny Adawlut, in consideration of past services and present infirmities or old age, for the term

of

What parts of Regulation 1, 1804, necessary to be stated under alteration made by Regulation 2, 1811.

UNDER the alteration made by Regulation 2, 1811, it is unnecessary to detail all the remaining Sections of Regulation 1, 1804, especially such as relate to the pay receivable by invalid officers, who might decline the option of being transferred to the jageerdar establishment, or the privates who by Section 22, Regulation 1, 1804, were declared "not eligible to the jageerdar establishment, except in particular cases to be determined by the Governor General in Council;" in which cases each private was to receive "twenty begahs, unless grants to a greater extent should be made to such privates by that authority." But as the invalid jageerdar establishments, constituted before the enactment of Regulation 2, 1811, still subsist; and although the superintendence of the regulating officers is to be withdrawn when the lands, within the limits of the several tannahs, shall have become liable to permanent rent, the tenures of the jageerdars and their heirs or other successors, will still be determinable by the rules prescribed in Regulations 1, 1804, and 11, 1808, it is requisite to state the following provisions in those regulations.

Section 22. Privates not eligible to jageers, except in particular cases.

Reg. 1, 1804. Sec. 4. Board of Revenue vested with the general superintendence of invalid and pension establishments.

1. "The general superintendence of the invalid jageer, and pension establishments, is hereby vested in the Board of Revenue."*

Section 5. Immediate su-

2. "The immediate superintendence of the invalid jageer establishments shall be entrusted to officers, who shall be de-

of the life of such worn out or disabled officer or public servant, is hereby declared not liable to seizure, attachment, or sequestration, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of court; nor any money due or to become due on account of such pension or allowance; unless the same have been assigned or made over by the pensioner by a writing under his signature, executed previous to the date of the promulgation of this regulation. §. 3. All assignments, bargains, sales, contracts, agreements, or securities, whatsoever, made after the date of promulgation of this regulation by such pensioner as described in the foregoing section, for any money to become due thereafter on account of his pension, shall be null and void and of no effect. But nothing herein contained shall be construed to prevent or render null the assignment of money due on account of a pension or monthly or annual pecuniary allowance, by a writing under the signature of the pensioner, executed on or after the date, when the same shall become due."

* The authority of the Board of Revenue, in the provinces of Behar and Benares, and in the districts of Ramghur, Boglepore, and Purnea, is transferred to the commissioner appointed in those provinces and districts, under Regulation 1, 1816, and Regulation 1, 1817.

nominated

nominated regulating officers. One officer shall be appointed to superintend the jageer tannahs in the zillahs of Boglepore, and Tirhoot: one officer shall be appointed to superintend the tannahs in the zillah of Behar: one officer shall be appointed to superintend the tannahs in the zillahs of Shahabad and Sircar Sarun: and one officer shall be appointed to superintend the tannahs in the zillah of Chittagong."

Superintendence committed to officers denominated regulating officers. Districts where they are to be stationed.

3. "The regulating officer in each district shall be subject to, and shall act under the orders of, the collector, and of the Board of Revenue; and all matters relative to the duties of the said officers, which it shall be proper to submit for the information or orders of the Governor General in Council, shall be communicated by the collector of the zillah to the Board of Revenue, who shall submit the same to the Governor General in Council."

Section 3. Regulating officers to be subject to the orders of the collectors, and the Board of Revenue. All matters to be submitted to Government through the collectors and the Board of Revenue.

4. "The following are the proportions of lands, which shall be granted to the several descriptions of invalids:

A Subadar of infantry and cavalry,	100 begahs.
A Jemadar of infantry and cavalry, and sarang,	50 ———
Havildar of infantry and cavalry, and tindal,	30 ———
Naik and cossab, ...	25 ———

Section 4. Proportion of lands to be granted to invalids.

5. "On notification being made to the collector of the number and description of invalids admitted on the jageerdar establishment, the collector shall immediately proceed to select and obtain the quantity of land required for them, in the manner and upon the conditions hereafter specified."

Section 5. Collector to select lands for invalids on notice given to him.

6. *First.* "When a collector shall have received information of a spot of waste land, calculated for the purpose of establishing a tannah; or for the accommodation of an invalid in one of the tannahs already established; he shall make a proposal in writing to the proprietor of the land, to take a lease of it in portions or entire, according as it may be wanted for one or more invalids, on the part and in the names of the invalids respectively; and on the terms specified in the following articles."

Section 6. Collector to make proposals in writing to the proprietors of lands, selected for the invalids, containing the following stipulations.

Second. Art. 1st. "The land shall continue the property of the zemindar or other proprietor; and shall not be separated from his estate."

Land to continue the property of the proprietor; and not to be separated from his estate.

Third.

Pottah to include the julker, bunker, and phulker.

Third. Art. 2d. "The pottah or deed of lease, shall include the julker, bunker, and phulker; or all trees and the produce of them, fisheries, and pasture land."

Land to be held rent free by the invalids during their lives, and to devolve to their heirs.

Fourth. Art. 3d. "The invalids shall hold the land free of rent, or any demand whatever, during their lives; and after their decease the land shall devolve to their heirs."

Heirs of invalids for the first five years after coming into possession, shall pay malikanah to the zemindar.

Fifth Art. 4th. "The heirs of invalids, for the first five years after they shall come into the possession of the land, shall pay to the zemindar a sum equal to one-tenth of the produce of the land, as malikanah."

The malikanah to cease after five years, and the land to be assessed in the proportion of two fifths of the annual produce.

Sixth. Art. 5th. "After the expiration of the period of five years, the payment of malikanah shall cease; and the proprietor of the land shall be entitled to rent in the proportion of two-fifths of the annual produce, whether it be in kind or in money, as may be agreed on between the parties concerned in the adjustment. This rent shall not be liable to any variation, and shall be paid to the zemindar, or other proprietor."*

Terms upon which heirs of invalids, who die within seven years, are to hold the lands.

Seventh. Art. 6th. "If the original grantee shall die within seven years from the date of his being put in possession of his lands, his heir shall continue to hold them rent-free until the expiration of such period of seven years; from which time the lands shall become subject to the rules contained in the two preceding articles, in the same manner as if the heir had then first succeeded to them, and his ancestor had held them, for a term exceeding seven years."

How lands of invalids dying without heirs are to be disposed of.

Eighth. Art. 7th. "If an invalid shall die without heirs, it shall be left to the option of a fresh man, coming upon the establishment, to supply his place in the tannah, upon such fresh man agreeing to take the lands upon the terms to which he would have succeeded to them, had he been the heir of the deceased. If no fresh man will agree to take the lands upon these terms, the land shall revert to the zemindar or other proprietor, who shall be entitled to dispose of them in such manner as he may think proper."

* This clause is modified by the provisions of Regulation 11, 1808, stated in the sequel.

Ninth.

Ninth. Art. 8th. "If an invalid shall die, and leave heirs who are not willing to receive the lands upon the foregoing terms, or are incapable of cultivating them, the heirs shall be allowed to dispose of their rights to any of the invalids belonging to the tannah; the purchaser becoming subject to all the conditions in the articles regarding such heirs."

In what cases, and to whom the heirs of invalids, are to be at liberty to dispose of their lands.

Tenth. Art. 9th. "If an heir to a jageer shall without reasonable cause leave the land uncultivated for one year after he may claim it, and shall have been ordered to be put into possession, the land shall be deemed forfeited, and shall be transferred to any other invalid, or heir or successor of an invalid, who will take it upon the same terms, as he would have been entitled to hold it, had he been the heir of the deceased. In the event of no invalid agreeing to take the jageer upon the above terms, the jageer shall revert to the zemindar or other proprietor, as in the cases provided for in the seventh article."

Heirs of invalids liable to forfeit their lands if they neglect to cultivate them for one year. Such lands to be transferred to some other invalid, or to revert to the proprietor.

Eleventh. Art. 10th. "Upon the arrival of the period for assessing lands which shall have devolved to the heirs or successors of invalids, such parts of the lands as might have been cultivated, and are not brought into cultivation, shall be resumed; and the zemindar, or other proprietor, shall be at liberty to grant pottahs for them to whomsoever he shall think proper; unless the person, who shall have omitted to cultivate them, shall enter into an engagement to bring them into cultivation in the course of one year, calculating from the commencement of the year in which they became liable to the final assessment; and in all future years, to pay for them as cultivated lands."

Rules regarding arable lands not brought into cultivation by the time they become liable to assessment.

Twelfth. Art. 11th. "The malikanah and rent to which the lands are declared liable in the fourth and fifth articles, shall be recovered from the incumbent in the same manner as from his other renters and ryots. No increase of revenue shall be levied from the zemindar or other proprietor, on account of the rent or malikanah, which shall become payable to him from the lands of the invalids."

Malikanah and rent how to be collected.

No increase of revenue to be levied on account thereof.

Thirteenth. Art. 12th. "Whenever an invalid, or his heir or

Pottah to be obtained from the

 successor,

proprietor, for invalids &c. on being put in possession of their lands, or on such lands becoming liable to assessment.

successor, shall be put in possession of a jageer, previous to its being charged with the permanent assessment, the regulating officer shall obtain from the proprietor, through the collector, a separate pottah for such person, which shall express the terms on which he is to hold the land, as specified in the preceding articles. When a jageer shall become liable to the permanent assessment, the regulating officer shall obtain from the zemindar, or other proprietor, through the collector, a pottah in the name of the possessor, specifying the rate of the rent or assessment; the quantity of land; the boundaries of it; and the terms of the tenure as above defined."

Proprietor to station an agent at each tannah, to keep accounts of the rent and malikanah, and to take care of his interests.

Fourteenth. Art. 13th. "The zemindars, or other proprietors, shall be allowed to station a mutsuddy in the tannahs, to take copies of the accounts of the rent and malikanah, which may become due to them, and to inform them of every infringement of the terms, under which the lands in the tannahs are held, as specified in the agreement between them and the zemindar or proprietor."

The authority of the regulating officer to be withdrawn when all the lands in a tannah shall become liable to a permanent assessment; and the tannah to be considered upon the same footing as other villages in the zemindarry.

Heirs and successors of original grantees to hold the land according to their pottahs.

In what case the jageer is to devolve to the zemindar, who shall be at liberty to dispose of it as he may think proper.

Fifteenth. Art. 14th. "Whenever all the lands included within the limits of a tannah shall have become liable to the permanent rent, or assessment, specified in the fifth article, Government shall withdraw the authority of the regulating officer; and the tannah shall be considered to be upon the same footing as other villages in the zemindarry or estate; the heirs and successors of the original grantees continuing to hold their lands upon the terms specified in their pottahs."

Sixteenth. Art. 15th. "After the officers of Government shall have been withdrawn from a tannah in the case specified in the fifteenth article, if an invalid, or his heirs or successsors, shall die without heirs and intestate, the jageer, or such parts of it as may have been held by the deceased, shall devolve to the zemindar or proprietor; who shall be at liberty to grant a pottah for it, or to dispose of it to such person, and upon such terms, as he may think proper."

Any other stipulations made between invalids and zemindars

Seventeenth. Art. 16th. "Any other stipulations which shall be made between the invalids and the zemindar, or other proprietor

tor of land, shall be binding on the parties. All differences between the zemindar or other proprietor, and the invalids, or other heirs or successors, respecting the nature of the invalid tenures, shall be decided in the dewanny adawlut of the zillah."

shall be binding on the parties. All differences respecting the nature of the tenures to be decided in the dewanny adawlut.

7. "If the estate, or any part of the estate, of a zemindar or other proprietor, in which lands leased to invalids under this regulation shall be situated, shall be disposed of at public sale, or be transferred, or devolve in any manner to any other person, neither the lease nor the terms of the tenures of the invalids, or their heirs or successors, shall be in any respect affected; but the new proprietor shall be bound by the terms of the deeds, in the same manner, as the proprietor who granted them would have been, had he retained the property, notwithstanding any thing that may be expressed to the contrary in Regulation 44, 1793, or any other regulation passed on the 1st May 1793, or on any subsequent date."

Section 10. Persons succeeding to an estate, or a part of it, in which any lands may have been leased to government under this regulation, to abide by the terms of the lease.

8. "Whenever invalids shall be established upon lands the property of government, they shall hold the lands of government upon the same terms, as invalids settled upon lands belonging to zemindars, or other proprietors of land paying revenue to government; or upon such other terms as the Governor General in Council shall judge it proper to prescribe, previous to establishing the invalids upon the lands."

Section 11. Invalids to hold lands the property of government upon the same terms as those of individuals.

9. "Widows, being heiresses to the jageers of their husbands, shall be allowed to marry whom they please, without forfeiture of their jageers; which, after their death, shall devolve to their heirs at law."

Section 12. Widows being heiresses may remarry without forfeiting the jageers, which are to devolve to their heirs at law.

10. "It shall be the duty of the regulating officer to settle, as far as he may be able, by his advice and admonitions, all internal affrays, differences, and claims, which may arise between the invalids themselves, and between them and other inhabitants of the

Section 13. Regulating officer to settle as far as possible by his advice all internal affrays, differences and claims.

the district, in such manner as shall be deemed equitable; leaving the parties, if his endeavours prove ineffectual, to have recourse to the established courts of justice. Provided however, that the rule contained in this section shall not be construed to empower the regulating officer to exercise any authority whatever without the limits of the tannahs under his charge."

Section 14. Vakeels of government to plead the causes of invalids free of cost on the requisition of the collectors.

11. "To prevent invalid jageerdars from being harassed with law suits, and to enable them to defend or prosecute suits in the courts of civil judicature, without being obliged to attend in person, or being subjected to trouble and expense, it shall be the duty of the vakeel of government, on the requisition of the collector, to plead the causes of such invalids free of cost."

Section 15. Process of civil and criminal courts, to be current in the invalid tannahs.

Invalids and all inhabitants of the tannahs to pay obedience thereto, under pain of fine or other punishment.

12. "The process of the civil and criminal courts of judicature, and of the police officers, shall be current in the invalid tannahs, in the same manner as in other parts of the country; and the invalids, and all inhabitants of the tannahs, shall observe a strict obedience thereto, under pain of paying such fine, or suffering such punishment, as the courts are empowered by any regulation, passed and printed in the manner directed in Regulation 41, 1793, to impose or inflict on persons disobeying or resisting their process."

Section 16. Jageers not to be assigned as security for money borrowed by invalids, nor be answerable for debts contracted by them. Jageer devolving to heirs of invalids, to be answerable for debts contracted by such heirs.

13. "Jageers, whilst possessed by invalids shall not be assigned as security for money borrowed by them, nor be answerable after their decease for debts contracted by them. But when jageers shall devolve to the heirs or successors of invalids, such jageers shall be answerable for debts contracted by such heirs and successors."

Section 17. Distribution of lands to be made by the regulating officers under the orders of the collector.

14. "The distribution of the lands in tannahs shall be made by the regulating officers under the orders of the collector, agreeably to the instructions with which they shall be furnished; and the courts of judicature shall not interfere in any manner, or receive

ceive any complaints or representations whatever, regarding such distribution."

Courts of judicature not to interfere nor receive complaints regarding such distribution.

15. "THE invalids shall be present at their respective tannahs at the periods of inspection; in failure of which they shall be struck off the establishment; excepting in cases in which the invalids shall be absent with permission, or from sickness, or other unavoidable cause, which shall appear satisfactory to the regulating officer, and to the collector. The courts of judicature shall not receive any complaints or representations, which shall be presented to them by any invalid, for having been struck off the establishment under this section."

Section 18. Invalids to be present at the period of inspection under pain of being struck off the establishment.

Courts of judicature not to receive any complaints from invalids so struck off on that account.

16. "The rules contained in Section 9, shall be considered to be immediately applicable to such lands as shall henceforward be granted to invalids. With a view however to ascertain and fix the tenure of the occupants, and to protect the rights of the proprietors, and to establish as nearly as may be practicable, an uniformity of system throughout the invalid tannahs, the collectors shall endeavour to conclude agreements with the zemindars, rendering all lands now held by invalids, (excepting the lands granted to invalids under the regulations of the 18th February 1789), subject to the conditions specified in Section 9, of this regulation. It shall likewise be duty of the collectors to new-model the tannahs, as far as relates to the proportions of land, and to fix for each invalid, now on the establishment, the quota of land assigned for his rank. The collectors shall also extend this rule to the heirs and successors of invalids, who have come into possession of jageers; resuming both from invalids, and from the heirs and successors of invalids, whatever quantity of land shall appear to have been granted to them exceeding that proportion; excepting where the occupants have brought into cultivation a larger quantity of land than is now fixed for their respective ranks, or for the ranks of their ancestors and predecessors; in which cases the occupants shall not be deprived of any part of the land, which is in actual cultivation,

Section 19. Rules in Section 9, to be considered immediately applicable to lands, which shall be henceforward granted to invalids.

The collectors to new-model the tannahs already established.

To extend this rule to the heirs and successors of invalids.

but shall continue to possess the whole under the conditions above prescribed. Provided however, that nothing contained in this section shall be construed to annul or set aside any of the rights of the jageerdars, or of the proprietors of the land, under any existing engagements, or under the rules contained in Regulation 43, 1793, and Regulation 56, 1795, until the arrangements prescribed in this section shall, with the consent of the zemindars concerned, have been carried into complete effect."

Nothing contained in this section shall be construed to annul or set aside any of the rights of the jageerdars or of the proprietors of land under any existing engagements, or rules in Regulation 43, 1793, and Regulation 56, 1795.

17. "Whenever a new tannah shall be ordered to be established, or whenever land adjacent to any existing tannah shall be required for invalids, the land shall be completely cleared by the collector of the zillah. The collector's estimate of the expense of clearing the land shall include the digging of the necessary wells; the making the necessary embankments or water-courses; and every requisite work for rendering the land fit for immediate cultivation. When the land shall be nearly prepared, the collector shall give notice to the commandant of Allahabad, or other officer in charge of the invalids, for the purpose of having the proper number of native officers dispatched to occupy the land. The collector's bill for clearing the ground shall be submitted, when the work shall have been finished, to the Governor General in Council, through the channel of the Board of Revenue."

Section 20. Lands required for the tannahs to be cleared by the collector and a bill for the expense to be submitted to Government through the Board of Revenue.

18. *First.* "The land required for the residence of an invalid, and comprehended within the boundary of his house, garden, and offices, shall be included under a distinct head, in the pottah for his jagheer; and the rate which he is to pay for this portion of land shall be fixed by the collector at two-thirds of the usual rates of the district for such land." *Second.* "Any land which shall be required in each village for roads, wells, or other public purposes, shall be purchased by Government; and shall be bestowed on the tannah gratis; the amount of the purchase money shall be inserted in the contingent bill of the collector."

Section 21. Particulars which are to be specified in the pottahs for invalid jageers.

Lands required for roads, &c. to be purchased by Government and bestowed on the tannah gratis.

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Additional rules established by Regulation 11, 1808.

The following preamble to Regulation 11, 1808, states the grounds of the additional rules established by that regulation. "In Clause Sixth, Section 5, Regulation 43, 1793, it was enacted, with respect to the rents payable by the heirs of invalid jageerdars, "that after the expiration of the period of five years, the "payment of one-tenth, as malikanah, prescribed in the Fourth "Article, shall cease; and the collector shall assess the lands "with a neat rent equal to two-thirds of the rent paid for other "lands in the district of the same description and quality." In Clause Sixth, Section 9, Regulation 1, 1804, it was enacted, that "after the expiration of the period of five years, the payment of "malikanah shall cease; and the proprietor of the land shall be "entitled to rent in the proportion of two-fifths of the annual "produce, whether in kind or money, as may be agreed on be-"tween the parties concerned in the adjustment." The latter provision was not intended to increase the rate of rent payable by the heirs of invalids to the zemindars; for which indeed no motive could exist; the lands in question not being included in the assets on which the jumma payable by the zemindars to Government had been adjusted. The modification in question was adopted on the supposition, that a difficulty might occur in ascertaining the sum which would be "equal to two-thirds of the "amount paid for other lands in the district of the same des-"cription and quality;" and also on the supposition, that the application of the more definite rule contained in Clause Sixth, Section 9, Regulation 1, 1804, would afford nearly the same result as the former provision; but which, from information since submitted to Government, the Governor General in Council has reason to believe, is not always the case.* The following rules

* On the supposition of "two-fifths of the annual produce, in money or kind," being equivalent to "two-thirds of the rent paid for other lands in the district of the same description and quality," the common rent would be three-fifths of the gross produce: but this is certainly more than the usual rent of land, paid by ryots or other cultivators of the land, in any part of the country. The established rule for dividing the grain crop in the province of Behar, where no specific engagement has been contracted, viz. 17½-40ths or 7-16ths of the crop to the cultivator, and 22½-40ths or 9-16ths including

rules have accordingly been enacted, to be in force from the time of their promulgation in all the districts in which invalid tannahs have been or may be established."

Section 2. Collectors to adjust the rent payable by the heirs of invalids under the control of the Board of Revenue.

2. "On the expiration of the periods specified in clause sixth, Section 9, Regulation 1, 1804, it shall be the duty of the collectors of the districts, in which invalid tannahs are situated, to adjust the rent payable by the heirs of invalids, on account of the jageers held by them, to the zemindars, under the supervision and control of the Board of Revenue."

Section 3. Rules for the guidance of the collectors in making such adjustment.

3. "In making such adjustment, the collectors shall be guided as nearly as possible by the spirit of the provisions noticed in the preamble to this regulation; that is, the zemindars shall be entitled to receive a neat rent equal to two thirds of the amount paid for other lands in the district, of the same description and quality; according to the best information which the collectors may be able to obtain on that point; and the adjustment so made shall be considered binding between the zemindars, and the above description of tenants, so long as the lands shall be occupied by the latter."

Section 4. Courts of justice to be guided by adjustment in the decision of suits preferred by zemindars against the heirs of invalids.

4. "The courts of justice shall be guided by the adjustment made by the collectors, under the control of the Board of Revenue, in the decision of all suits, which may be preferred by zemindars against the heirs of invalids, to rent on account of their jageers; and no claim of that nature shall be deemed valid until it shall have been adjusted, under the preceding sections, by the collectors.

How zemindars are to proceed in case of such adjustment not being made in due time.

Should however, the collectors fail to make the requisite adjustment in due time, the zemindar, who may suffer any loss or inconvenience from that cause, will be of course at liberty to represent the circumstance to the Board of Revenue, who are hereby required to give the earliest attention to complaints of that nature."

(including the expense of appraisement and other charges) to the landholders or farmer, approximate the stated proportion of 2-5ths and 3-5ths, and perhaps led to the calculation noticed in the preamble to Regulation 11. 1808. But this mode of partition was in use for grain lands only; and gave to the landholder, or farmer, a larger share of the actual produce, when received in kind, than was paid in money, even for grain; much less for other articles of more expensive culture.

FIFTH

FIFTH PART.

SECTION I.

INVESTMENT OF THE COMPANY.

Change of system in providing the Company's investment, by contract, or agency.

It appears unnecessary to notice particularly the changes of system which have taken place, at different times, in the mode of providing the Company's Bengal Investment, by contract, or agency; or partly by each; by the employment of gomashtahs, dulals, pykars, or other native factors; or by immediate advances to the weavers; by ready money purchases in the market; or by advancing to the manufacturer, under engagements to supply goods of certain qualities, at stipulated prices. The system that has been established for a considerable period, in which the Company's Civil Servants are employed as commercial agents, in the interior of the country, under the superintendence and control of the Board of Trade at the presidency, is proved by experience to be the best calculated for keeping up, and improving, the quality of the various assortments of piece goods, which constitute the chief part of the investment; and it is evident that the provision by agents, acting faithfully for the interests of their employers, should be more economical, than a plan of contract, which besides a compensation to the contractor's agents, supposes at least a reasonable profit to himself. It does not fall within the design of this work to consider the policy of what has been denominated, by a committee of the House of Commons, *the Revenue Investment of the Company;* as having, since the year 1766, been supplied with funds for the provision of the greater part of it from the territorial revenues of India; (including the profits

Present system.

The policy of what has been termed the *Revenue investment of the Company* not within the design of this work.

profits of the salt and opium monopolies ;) instead of the produce of European commodities, and an import of money (chiefly silver) from Europe ; which naturally furnished the means of a commercial investment from the whole of the British possessions in this quarter of the globe, before the Company became possessed, by conquest and treaty, or by the dewanny grant, of a considerable local revenue.* Whatever objections of justice, or policy, may have really existed under monopolies, or rights of pre-emption, which formerly prevailed (beyond what was publickly sanctioned) in providing the different articles of raw produce, or manufactured goods, which compose the annual investment of the Company, from Bengal, and its dependencies ; the rules contained in Regulation 31, 1793, "for re-enacting with modifications and amendments, the rules passed on the 23d July 1787, and subsequent dates, for the conduct of the commercial residents and agents, and all persons employed in the provision of the Company's investment," will shew that no compulsion, beyond that required to enforce engagements, is now authorized ; and that the most effectual means have been taken to prevent oppression and injustice, by promulgating the rights of manufacturers and others ; and declaring

Whatever objections existed against former modes of providing the Bengal investment, they are not applicable to the present system ; under the rules prescribed by this regulation in force.

* See on this subject the ninth report of the select Committee of the House of Commons, 1783 ; and its appendix ; with various other publications, which need not be specifically mentioned. The general heads of the above report are, 1. Observations on the state of the Company's affairs in India. 2. Connection of Great Britain with India. 3. Effect of the Revenue Investment on the Company. 4. Internal trade of Bengal. 5. Silk. 6. Raw Silk. 7. Cloths or piece goods. 8. Opium. 9. Salt. 10. Salt-petre. 11. British Government of India. Under the second of the above heads, it is observed, that "when an account is taken of the intercourse (for it is not commerce) which is carried on between Bengal and England, the pernicious effects of the system of Investment from revenue will appear in the strongest point of view. In that view the whole exported produce of the country (so far as the Company is concerned) is not exchanged in the course of barter ; but is taken away without any return of payment whatever. In a commercial light therefore England becomes annually bankrupt to Bengal, to the amount nearly of its whole dealing." But it may rather be said that England receives an annual tribute from Bengal, to the amount nearly of the Company's Investment : and if it be justifiable to take any tribute from a conquered country, one which returns a part of the annual revenue into cirrulation, for the purchase of manufactures, is manifestly less injurious than an export of specie would be ; though compared with the usual principles and tendency of an export trade, the tributary supply of any part of the home-produce must certainly be considered a disadvantage and loss of the first magnitude.

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the officers of Government, as well as individuals, liable to be sued in the courts of judicature for any infringement of them.* The preamble to the above regulation declares the principles, upon which the subsequent rules are founded, in the following terms: "The nature and extent of the commercial concerns of the Company render it necessary that rules should be prescribed for preventing manufacturers, or other persons in their employ, embezzling the money advanced to them, or disposing of the goods provided with it to individuals, and for ensuring the delivery of the goods agreeably to their engagements. No well founded objection can be offered to such rules by the manufacturers, or others to whom they may extend, whilst they at the same time establish it as a fundamental principle, that no person shall be compelled to work for the Company; and that those who may engage in their employ, shall always be at liberty to relinquish it, after performing the engagements into which they may have voluntarily entered. It is equally requisite, on general principles, that precautions should be taken to prevent the rules adopted for the abovementioned purposes, being rendered subservient to the private views of officers employed in the provision of the investment, to the injury of the manufacturers, and the prejudice of the interests of the Company, both in their commercial capacity, and as rulers of the country. As the most effectual mode of guarding against such abuses, and of insuring justice to the manufacturers and others in their dealings with the Company, the Governor General in Council has determined that the rules, to which persons engaging to furnish goods for the Company's investment may be subjected, shall be incorpo-

Preamble to Regulation 31, 1793.

* The select committee, in the report before referred to, page 23, remark indeed that "the great and valuable articles of the Company's investment, drawn from the articles of internal trade, are raw silk, and various descriptions of piece goods made of silk and cotton. These articles are not under any formal monopoly; nor does the Company at present exercise a declared right of pre-emption with regard to them. But it does not appear that the trade in these particulars is, or can be, perfectly free; not so much on account of any direct measures taken to prevent it; as from the circumstances of the country, and the manner of carrying on business there. For the present trade, even in these articles, is built from the ruins of old monopolies and pre-emptions, and necessarily partakes of the nature of its materials." I am not aware however that this remark is applicable to the actual operation and result of the regulations now in force.

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rated with the laws and regulations for the internal Government of the country; and that the officers employed in the immediate superintendence of the provision of the investment shall be liable to be sued for any deviation from those rules in the courts of judicature; that every person who may deem himself aggrieved by their official acts, whether originating with themselves, or done in consequence of orders from the superior authorities, may be able to obtain redress with the same facility as for an injury received from any individual. The following rules, being the rules passed by the Governor General in Council on the 23d July 1787, and subsequent dates,* with modifications and amendments, adapted to the principles above stated, have been accordingly enacted." 2. "Weavers not indebted, nor under under engagements, to the Company, shall not be compelled to enter into their employ; and weavers indebted, or under engagements to the Company, on duly discharging such debts, or engagements, shall not be compelled to enter into fresh engagements." 3. *First.* "Weavers, who may engage for the provision of any part of the Company's investment, are to consider themselves as engaging under the following rules and conditions." *Second.* "All engagements with weavers are to be made in writing, attested by at least two credible witnesses. One copy of the writing is to remain with the commercial resident or his officers; and the remaining copy with the other party to the engagement." *Third.* "Weavers under engagements to the Company, and who may not intend to take further advances, shall give at least a fortnight's notice of their intention." *Fourth.* "Weavers indebted to the Company, who have received advances from them, or come under engagements to them, shall, in discharge of such debt, advances, or engagements, deliver cloths, according to agreement. They shall on no account give to any other person or persons whatever, European or native, either the labor or the produce engaged to

Section 2. No weaver to be compelled to work for the Company. Persons under engagements, after fulfilling them, not to be compelled to re-engage.

Section 3. Conditions to which weavers engaging for the provision of the Company's investment are to consider themselves subject. Engagements to be made in writing attested by not less than two witnesses.

Weavers not choosing to take further advances, to give a fortnight's notice.

No weavers to work for individuals, or bazar sales, until they have completed their engagements on account of the investment.

* See the rules referred to, in vol. 3. of COLEBROOKE's Digest, pages 462 to 468: and previous rules concerning weavers, under dates the 12th April 1773, 1st May 1775, 12th June 1775, 31st August 1775, 22d April 1782, and 19th July 1786, in pages 453, to 457 of the same volume.

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the Company; and if they have not fulfilled their engagements by the period agreed on, they shall not work for newer engagements, nor for bazar sales, until those engagements are completed." *Fifth.* "When any weaver fails to deliver, by the stipulated periods, the cloths for which he may have engaged, the commercial resident shall be at liberty to place peons upon him, in order to quicken his deliveries, and prevent his infringing the two restrictions in the latter part of Clause Fourth." *Sixth.* "If notwithstanding the restrictions in the latter part of Clause Fourth, any weaver shall, by himself, or by any other person, sell cloths to private merchants, Europeans or natives, or to dealers or agents of whatever description, whilst he is deficient in his stipulated deliveries on account of the Company's investment, he shall be liable to be prosecuted in the Dewanny Adawlut; and upon proof of the fact, he shall be adjudged to forfeit to the Company all that the produce of the cloths so sold, rated either at what he got for them, or their bazar value, shall exceed the ordinary prime cost of the thread in them, with costs of suit besides; and moreover be obliged to complete his engagements." *Seventh.* "Weavers possessed of more than one loom, and entertaining one or more workmen, shall be subject to a penalty of thirty-five per cent on the stipulated price of every piece of cloth that they may fail to deliver according to the written agreements which they may have executed, in addition to the re-payment of the money advanced for the same." *Eighth.* "The penalty specified in the preceding clause shall be sued for in the Dewanny Adawlut; and shall be recoverable, on the agreement with the weaver, and the failure in his deliveries, being proved." 4. "A list or register of the weavers employed in the provision of the Company's investment, in every pergunnah, specifying their places of abode, shall be fixed up by the commercial resident in the cutcherry of that pergunnah; and shall be corrected at the beginning of every week or month, according to the alterations that may have happened in the week or month preceding. The officers of the cutcherry are to give immediate permission for the exhibition of the list; and the

Peons may be put on weavers failing in their engagements, for the purposes herein specified.

Penalty for weavers disposing of cloths to individuals whilst they are deficient in their deliveries on account of the investment.

Penalty for weavers failing in their stipulated deliveries.

How the penalty in the preceding clause is to be recovered.

Section 4. List of weavers employed by the Company to be fixed up in the cutcherry of the collector.

commercial resident shall transmit a copy of it, in the native language, once in every three months to the judge of the zillah." 5. "Persons procuring from weavers in the Company's employ, by the offer of ready money, or under the pretence of previous engagements which were not avowed, cloths really wrought for the Company, and with their advances, knowing such cloths to be the right of the Company, either by the mark upon them, or the transactions between the weavers from whom they procure them, and the Company, or having reason for such knowledge from the notoriety of such weavers being in the Company's employ, or discovering the same by the clandestine methods they take to obtain the cloths, shall be liable to be sued for damages in the Dewanny Adawlut; and on proof of the fact to its satisfaction, the court shall award to the Company such amount as may appear to it equitable, in addition to the cloths so obtained. But for purchases, openly and fairly made in the public hauts and bazars, the buyers shall not be liable to prosecution, unless the cloths have the Company's mark upon them." 6. "All officers of Government, proprietors and farmers of land, and dependent talookdars, under farmers, and ryots, and their agents and dependents, are enjoined not to hinder the commercial residents, or their officers, from access to weavers, or other persons, in order to treat with them about the Company's business; nor are they to use any arts, menaces, or punishments, to deter weavers, or other persons, from accepting the Company's advances, under pain of being liable to be sued for damages in the Dewanny Adawlut." 7. "All officers of Government, proprietors and farmers of land, talookdars, under farmers, and ryots, and their agents and dependents, are strictly prohibited from behaving with disrespect to the commercial residents or their officers; and they are required, on application from the commercial residents or their officers, to afford every assistance for the protection of the weavers, and other persons employed by the Company, and the security of the investment, that may be consistent with the powers and authority vested in them, and the regulations." 8. "Weavers employed by the Company, who may cultivate

Section 5. Persons procuring from weavers cloths made with the Company's advance, how to be proceeded against.

Section 6. No persons to use means to prevent individuals being engaged in the Company's employ.

Section 7. No public officers or any individuals, to behave with disrespect to the residents or their officers. Nor to impede the business of the investment, but to assist it to the utmost of their power.

Section 8. Weavers in

cultivate or rent land, are to pay the rent according to their pottahs, in the same manner as other ryots or renters, and under the same rules and regulations; with the exceptions hereafter specified, as to the mode of demanding and enforcing payment of arrears of rent due from them." 9. *First.* "To prevent unnecessary interruption to the provision of the investment, and at the same time that weavers, and other persons employed in the provision of it, may not withhold the rent justly due from them for land which they may rent or cultivate, the following rules are prescribed." *Second.* "No weaver, or other manufacturer, gomastah, or other officer or person employed in the provision of the Company's investment, shall be summoned to the cutcherry of any proprietor, or farmer of land, or any native holding or entrusted with the collection of the rents or revenue of lands, under any pretence whatever. If any such persons shall have claims on such weavers, manufacturers, gomastahs, or officers, for, or relating to, arrears of rent, they shall either distrain for the amount; (under the regulations for distress on account of arrears of rent;) or sue the defaulter for it in the Dewanny Adawlut; or state their claim in writing to the commercial resident; who, if the weaver, or other person, be then actually employed by the Company, may, if he shall deem it expedient so to do, cause him to satisfy the claim, or satisfy it himself, and stop the amount by kistbundy from his future advances; so that his labor on account of the Company's investment may not be interrupted. But the cloth, thread, or advances, belonging to the Company, in the hands of such weaver or other person, shall in no case be liable for such demand, but shall be restored to the resident."* 10. *First.* "Persons

their capacity of ryots to be subject to the same regulations as other ryots, with the exceptions hereafter specified.

Section 9. Rules for the recovery of arrears of rent from weavers in the Company's employ.

Weavers, &c. in the Company's employ, not to be summoned by any native concerned in the collections of the rents or revenue of lands.

Section 10. How summoned.

* The following additional rule is contained in Section 3, Regulation 9, 1801: "Proprietors and farmers of land, to whom an arrear of rent may be due from persons employed in any part of the Company's investment, are to proceed for the recovery of it in the mode directed by the Second Clause of Section 9, Regulation 31, 1793, and the further rules for distraining the crops and personal property of defaulting under-tenants contained in Regulations 35, 1795, and 7, 1799. The summary process for arrest and confinement authorised by the six First Clauses of Section 15, Regulation 7, 1799; is hereby declared not applicable to any persons who may be under

ees are to be served on weavers or other persons in the Company's employ, who may be sued in the Dewanny Adawlut.

"Persons instituting suits in the Dewanny Adawlut against a weaver, or other manufacturer, or any officer or person employed in the provision of the Company's investment, are to specify his being so employed in the bill of plaint. In such cases, the summons, with a copy of the plaint, shall be enclosed to the commercial resident, under a sealed cover, addressed to the resident, and superscribed with the official signature of the judge or the register. It shall be at the option of the resident to execute, or to cause one of his officers, or any person whom he may think proper, to execute, the security required from defendants;* and also the security directed to be taken for the fees of the authorized vakeel whom the defendant may entertain; or to leave the party summoned to find such securities; and in the latter case, if the officer of the court bearing the summons, where it shall have been transmitted by an officer, shall entertain any doubt of the responsibility of the security so offered, and the resident shall deem it to be sufficient, the officer shall accept the security. If the resident shall not think it proper to order any of his officers, or any other person, to become security, and the defendant himself shall not be able to find security which the resident may deem responsible, he is to cause the defendant to accompany the officer of the court to the court, or, if no officer shall have been sent with the sommons, to appear in person before the court, that he may be dealt with in the same manner as other defendants not giving the required security." *Second.* "The residents are to empower the head officer at each of the different aurungs, or ko-

Residents to empower persons to become

under engagements to the Company for any part of their investment, or who may be actually employed in providing the same. "When such engagements may have been fulfilled, however, or whenever any weaver or other person, in the Company's employ, may have satisfied all demands upon him on the part of the Company, he will be liable, in common with other under-tenants, to be proceeded against for arrears of rent, as authorized by the above regulation, or by any other regulation applicable to persons not in the Company's employ."

* Under the amended rules of process for the civil courts, prescribed by Regulation 2, 1806, security is not demandable from defendants on the institution of a suit, unless there be reason to believe that he intends to abscond, and withdraw himself from the jurisdiction. A notice also, which may be delivered to any accredited agent of the defendant, is to be issued in the first instance, instead of a summons. See vol. I. page 601, and sequel.

tees, subordinate to them, and also an authorized vakeel of the Dewanny Adawlut, or any other person whom they may think it proper to station at the place at which the court may be held, to execute securities for the persons, and in the cases specified in the preceding clause. The residents are to be careful to keep the judges furnished with a list of the persons so empowered, specifying also the place at which they may usually reside; and the judges are authorized, in instances in which they may deem it proper, either from the distance of the place of abode of the resident from the place at which the party summoned may reside, or other circumstances, to order the summons to be enclosed to one of the persons so empowered to become security, instead of transmitting it to the resident himself under the preceding clause; in which case such person shall proceed in the same manner as the resident is directed to proceed, where the sommons may be sent immediately to him." *Third.* "If any person shall prefer a suit in the Dewanny Adawlut against a weaver, or other manufacturer, or any officer or person, employed in the provision of the Company's investment, without specifying that the defendant is so employed, and the summons shall in consequence be ordered to be served on the defendant, in the same manner as on other defendants, the officer serving the same, upon the circumstance of the defendant being so employed being notified to him by the resident, or any of his officers, or by the defendant himself, shall deliver the summons to the nearest person empowered to execute securities in the cases specified in Clause First, whether the resident, or the head officer of an aurung or kotee; who shall proceed, in the manner prescribed to the resident in that clause. If the officer shall receive the notification of the defendant being in the Company's employ, from the defendant only; and shall entertain doubts of his being so employed; or if he shall not entertain any doubt of his being so employed, but shall apprehend that he will abscond whilst he (the officer) is repairing with the summons to the person empowered to execute the securities; he shall, in such case, carry the defendant, with the summons, to the person so empowered; and shall not release him

security; and judges may transmit summonies to them.

How obedience to a sommons is to be enforced if issued against a person employed in the Company's investment without its having been so specified in the plaint.

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How warrants for bailable offences against persons employed in the investment are to be served.

him, until the required securities have been executed." *Fourth.* "In cases in which a weaver, orother manufacturer, or any officer or person employed in the provision of the Company's investment, shall be charged before the magistrate with a bailable offence; the warrant shall be served in the manner directed in the preceding clauses, with regard to summonses in civil cases; with this difference, that the warrant shall require the party summoned to appear in person, or by vakeel, as the magistrate may think proper; and shall specify the amount of the sum for which the security or recognizance for the appearance of the defendant is to be given; and the amount of which shall be regulated by the magistrate according to the nature of the charge, and the situation and circumstances in life of the defendant."* *Fifth.* "In all the cases specified in the preceding clauses of this section, the resident, or head officer through whom the summons or warrant may be served, shall return on the back of it in what manner it has been served, and by whom the security has been executed."

Return to be made on the back of summonses and warrants served as above directed.

Warrants for offences not bailable how to be executed on persons in the Company's employ.

Sixth. "If a charge shall be preferred to a magistrate against any weaver or other manufacturer, or any officer or person employed in the provision of the Company's investment, for an offence that is not bailable, and there shall appear to the magistrate sufficient ground for apprehending the person so charged, the warrant for his apprehension shall require him to appear immediately in person, and shall be executed in the same manner as upon persons not so employed. But the officer, after securing the offender, is to give notice of his apprehension to the resident, or the head officer of the nearest aurung or kotee." *Seventh.* "The darogahs of police are to observe the rules prescribed in Clauses Fourth and Sixth of this section, in complaints that may be preferred to them against weavers, or other manufacturers, or officers, or persons, in the employ of the Company." *Eighth.* "In all cases in which the residents, or their head officers empowered

Darogahs of Police to observe the rules in Clauses Fourth and Sixth.

Residents and their head officers to be responsible for the

* By Section 4, Regulation 9, 1801, this clause is declared applicable to warrants on a charge of resistance of process, without any aggravating crime attending it, issued against a person actually employed in providing any part of the Company's investment.

for

for that purpose, shall become security, under any of the clauses of this section, for the appearance of any person employed in the investment, or for the fees of his vakeel, or shall declare any person whom the party summoned may offer as security, to be responsible, the resident is to be considered personally answerable for the due performance of the conditions of the security, in the event of the party for whom the security may be given not performing them himself; or, where the party himself shall have given the security, and it shall have been declared responsible by the resident, or his head officer of an aurung or kotee, in the event of the party or his surety not performing them. It will accordingly be the business of the residents, to take care to employ creditable persons only as head officers at the several aurungs, and kotees, to superintend the business, and become security; and to furnish them with proper instructions, and to take such security from them, as they (the residents) may deem sufficient to indemnify themselves for the consequences that may result from any abuse which such officers may commit in the exercise of their trust." *Ninth.* "Summonses to weavers, or other manufacturers, or officers, or any persons employed in the Company's investment, as witnesses, shall be served in the same manner as if they were parties in the cause; but the judges are to be careful not to summon such persons, excepting when their attendance shall be absolutely necessary; and on their appearance, to have them examined and dismissed with all practicable dispatch, so that they may be absent from the business of the investment as short a time as possible." *Tenth.* "The residents, and their head officers, are declared liable to be sued in the dewanny adawlut, should they apply any of the rules in the preceding clauses of this section, regarding summonses and warrants issued against persons employed in the investment, to persons not *bonâ fide* so employed. And as the rules contained in those clauses are intended only to prevent unnecessary interruption to the investment, where it can be avoided without impeding the course of justice, the judges and magistrates are empowered, in

performance of the conditions of the securities they may execute or approve.

How summonses on persons employed in the investment, when required as witnesses, are to be executed.

Residents and their head officers forbidden to apply the above rules to persons not employed in the Company's investment.

Discretionary power vested in the judges and magistrates of causing the immediate attendance of all natives employed in the investment.

in particular cases, in which it may appear to them indispensably necessary, for the purposes of justice, to order the personal attendance of any native officer, or person, in any wise conserned or employed in the investment, whether he may be a party, or a witness in the suit, or prosecution, notwithstanding any thing that may be said to the contrary in those clauses; and to cause process to be executed upon him for that purpose, in the same manner as upon other individuals; but in such cases, the judges and magistrates are to record their reasons for deviating from the prescriptions contained in the said clauses; which are to be considered as the general rules for issuing and executing such summonses, and warrants; and in the summons or warrant, they are to specify that it has been specially ordered to be so executed, in virtue of the discretionary power vested in them by this clause; and they are moreover strictly enjoined to refrain from every unnecessary exercise of this discretionary power." 11. "All complaints of weavers against individual traders, and *vice versâ*, are to be considered as matters of a private nature between the parties, who are to have recourse to the proper courts of judicature, should they have any ground of complaint against each other for breach of engagements, or other cause. The courts are to decide according to the tenor of the engagements between the parties, if any engagements exist, and the regulations. But where weavers are employed at the same time by more than one foreign or private agent, they shall deliver first to the previous contractor, and afterwards to the others, according to priority of engagements." 12. *First.* "Decisions in favor of private merchants, or other individuals, against weavers who were in the employ of the Company at the time they entered with such private merchants, or individuals, into the agreements on which they are sued, (their having been so employed being proved, by the lists of the Company's weavers published at the cutcherries, and transmitted to the judge of the dewanny adawlut, as directed in Section 4; as well as by the dates of the respective agreements and transactions consequent to them;) shall be made with a saving to the Company of

Restrictions under which this discretionary power is to be exercised.

Section 11. Transactions between private traders and weavers cognizable in the courts of dewanny adawlut, the judges of which are to decide according to the case, and the regulations.

Section 12. Decisions in favor of private traders against weavers, previously in the employ of the Company, to be made with a saving of their claims, which are to be first satisfied, provided they be proved.

of their claims on such weavers, which claims also are to be proved in court. And that this rule may be carried into effect, before execution follows, at the suit of an individual against any weaver in that list, the Company's commercial resident shall be desired to state whether such weaver was in the employ of the Company, when the agreement, on which he may be cast, was made; as also whether the Company have any and what demand upon him; and to make proof of the same; which being satisfied or secured, the sum decreed against him in favor of the individual shall next be made good from his property, *but his person shall not be liable to attachment.*"* 13. "Gomastahs, deedars, mokeems, and all native servants and persons of whatsoever description, employed under the Company's factories, or aurungs, in the provision of their investment, guilty of changing the Company's cloths, accepting of money from individuals for abetting or conniving at the alienation of them by the weavers, writing false balances in the Company's accounts, embezzling otherwise the property entrusted to them, or exacting money in any shape from weavers to whom advances are made, shall, on conviction in the court of Dewanny Adawlut, to which they may be amenable, forfeit double the amount of the value of the property, or the money, which they may have embezzled, alienated, or exacted; and shall be further liable to imprisonment, for any term that the court may judge proper, not exceeding twelve months; and upon the circumstances being represented by the Board of Trade to the Governor General in Council, he will, if it shall appear to him proper, declare the offender incapable of serving Government in a-

Section 13. Punishment for gomastahs, &c. changing cloths, and committing the offences herein specified.

* The following explanation of the concluding part of this rule has been given in Section 3, Regulation 9, 1801. "The restriction contained in Section 12, Regulation 31, 1793, that the persons of weavers in the employ of the Company shall not be liable to attachment, in execution of decisions of the civil courts in favor of private merchants or other individuals, was not meant to restrict the confinement, under judicial process, of persons who may have satisfied all just demands upon them on the part of the Company; and who may not have taken new advances from the Company, or entered into new engagements with them, the fulfilment of which would be frustrated by the confinement of the contracting party. The several courts of justice are accordingly to observe this explanation of the rule abovementioned, in all cases to which it may be applicable."

Section 14. Rules regarding weavers applicable to others providing goods for the investment.

ny capacity." 14. "All the rules in this regulation, regarding weavers employed for the Company, are to be considered to extend, in their principles and meaning, to the manufacturers and other persons employed in the provision of raw silk, and of the other articles of the Company's investment provided within the provinces of Bengal, Behar, or Orissa."

Section 15. Rules for residents trading on their own account. Resident to supply the Company's goods in the first instance.

15. *First.* "The following rules are prescribed for the conduct of commercial residents carrying on trade for themselves."

To distinguish the Company's provision from his own.

Second. "The resident shall supply, or ensure, the Company's demand for goods, as far as the ability of his aurung will go, before he provides any for himself."

Third. "He shall carefully, and avowedly, distinguish to the manufacturers, between the Company's provision and his own."

Company's prices not to be made the standard of his own trade.

Fourth. "He shall give them the price for which they may choose to deal with him, without making the Company's prices a standard for his own trade."

Not to use his official influence to make the manufacturers work for him in preference to others.

Fifth. "He shall not make use of any influence he may possess, as the Company's representative, to induce the manufacturers to work for him, in preference to other dealers."

Subject to the same rules as private traders.

Sixth. "He shall be subject to the same regulations, in case of disputes with manufacturers, as other private traders."

To deal on his own stock. Not to trade in the name of another.

Seventh. "He shall not take any commission for agents, or others; but deal merely on his own stock as a merchant."

Eighth. "He shall not carry on any trade in his aurung, directly or indirectly, in the name of any other person."

His goods not to be sold at his own aurung, nor sent to a foreign settlement.

Ninth. "Whatever goods he may provide, of the produce of the aurung, where he is stationed, shall not be sold there; nor sent to any foreign settlement; but shall be consigned to some other place; and if brought to Calcutta, or sent by Manjee to the upper provinces, shall be registered in his name in the custom-house books."

To deliver an annual statement of his private trade to the Board of Trade.

Tenth. "He shall state to the Board of Trade, by the 15th of December in every year, the gross amount of the money invested, or to be invested, by him on his own account, as nearly as he can judge of the same, from the 1st May preceding, to the 30th April following; and the Board of Trade shall thereupon communicate to the Governor General in Council any remarks that may appear to them proper."

Section 16. Residents and

16. "The commercial residents, and their

their native officers of every description, are declared liable to be sued in the Dewanny Adawlut, by weavers or others, with whom they may use compulsion to make them enter into the Company's employ; or whose names they may improperly insert in the list specified in Section 4; or whom they may not pay for their cloths or goods, according to the engagements entered into between them and the Company; or who may not obtain in due time a fair settlement of accounts; or who may suffer unjust exactions from peons put over them; or for any breach of this regulation; or any other regulation regarding the provision of the investment, printed and published in the manner diricted in Regulation 41, 1793. In all such cases, whether the act complained of shall have been done by the resident, or any of his officers, the party aggrieved is, in the first instance, to state his complaint to the resident; and in the event of his refusing to afford the required redress, or omitting to grant it within a reasonable time, the complainant may then sue the resident, whether the injury complained of shall have been done by himself, or his officer. But the courts are not to receive any suit that may be preferred against a resident, or any of his officers, unless the complaint shall prove to the satisfaction of the court, by oath, or by any other mode which the court may deem satisfactory, that he applied to the resident for redress, and that he refused to afford the redress required, or omitted to grant it within a reasonable time. Either party dissatisfied with the award or decision of a resident, on any complaint made to him under this section, may appeal from it to the Dewanny Adawlut."

their officers liable to be sued in the Dewanny Adawlut for breach of regulations under the restrictions herein specified.

17. "In suits instituted against a resident or any of his officers, under the preceding section, and where the act complained of shall not have been done pursuant to special orders from the Board of Trade, or the Governor General in Council, the party complained against is to appoint one of the authorized vakeels of the court to defend the suit at his own risk."

Section 17. Resident and his officers to defend suits instituted against them for a breach of the regulations at their own risk.

18. "The residents may take upon themselves the defence of any suits which may be instituted against their officers; but in such cases, the residents are to be answerable for the decree of the court in the same manner as if the

Section 18. Residents may take upon themselves the defence of suits instituted against their officers.

suit

Section 19. Process issued against residents how to be served.

suit had been originally instituted against them." 19. "When any process shall be issued by a court of civil judicature to a commercial resident, the judge, or the register of the court, is to transmit it under a sealed cover, addressed to the resident in the form of a letter, and superscribed with his name and official appellation. The resident is immediately to acknowledge the receipt of the process by an endorsement to that effect on the instrument; and to return it under a sealed cover, addressed to the judge or the register of the court from which it may have issued."

Section 20. By whom decrees, costs and damages, given against residents and their officers, are to be made good.

20. "Where the Board of Trade shall approve of decisions given against the commercial residents, or their officers, in suits which they may have been engaged in their official capacity; and which may not have been prosecuted or defended by them, pursuant to orders from the Board, or the Governor General in Council; they are empowered to make the resident, or his officer by whom the act complained of may have been done, responsible for the whole or any part of the costs and damages awarded by the decree; or of the decree itself, if upon a consideration of the merits of the case, and of the conduct of the person against whom the decree may be given, or the act complained of may have been done, they shall be of opinion that the Company ought not to be charged with all or any part of such costs or damages, or decree. But in such cases, the person whom they may so determine to hold responsible, may appeal the cause, at his own risk and cost."

Section 21. Board of Trade may authorize an appeal from any decision passed against the resident or his officers.

21. "If the Board of Trade shall be dissatisfied with a decree passed against a commercial resident, or any of his officers, in suits in which they may have been engaged, either with or without their orders, or the orders of the Governor General in Council, they may authorize an appeal from it under the regulations; in which case the appeal shall be carried on in the Provincial Court of Appeal, and in the Sudder Dewanny Adawlut, (should the cause be carried to the last mentioned court,) by the vakeel of Government, or by any other authorized vakeel of the court into which the cause may be brought, notwithstanding any thing that may be said to the contrary in any regulation passed on this

this date." 22. "Security is not be demanded from the commercial residents, or the head officers of aurungs or kotees, who may be empowered to execute securities, for their personal appearance, in any suit in which they may be engaged in their official capacity; nor shall security be required from them for the payment of costs or damages, or for the performance of the decrees or orders of the courts; as Government will be responsible for causing the residents to answer to such suits instituted against them; and to make good the decrees; and will hold them responsible for their head officers of aurungs or kotees answering to such suits preferred against them; and performing the decrees that may be passed therein." 23. "The residents, and their head officers of kotees or aurungs, shall not be liable to prosecution for official acts of their predecessors. But persons who may be removed from a residency, or from the place of head officer of an aurung or kotee, are to carry on, in the same manner as if they had continued in the office, all suits instituted against them in their official capacity; unless the Board of Trade, upon a consideration of the circumstances of the cases, shall deem it advisable to order their successors to carry on the suits. This rule however is not to extend to suits in which a resident or head officer, who may have been removed, shall have been engaged in virtue of orders from the Board of Trade, or the Governor General in Council. All such suits are to be carried on by the residents for the time being; and at the risk and expense of Government." 24. "To facilitate the communication between the residents and their head officers of aurungs or kotees, and their vakeels in the zillah or city courts, or the provincial courts of appeal, and the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any suits or appeals in which they may be engaged in their official capacity, either whilst they may continue in the office, or after their removal from it, they are permitted to forward, free of postage, any instructions which they may have to transmit to their vakeels in those courts. The instructions are to be enclosed under a sealed cover, directed to the vakeel. The instructions, so sealed and directed, are to be

Section 22. Security not to be demanded from residents or their head officers for their appearance, or costs or damages, or decrees.

Section 23. Residents and their head officers not liable to prosecution for the acts of their predecessors. What suits they are bound to defend after removal from office.

Section 24. Residents and their head officers, allowed to forward instructions to their vakeels by the dawk, free of postage.

Instructions to be sealed and enclosed under a sealed cover, addressed to the register of the court, who is

to deliver them sealed.

be transmitted under a sealed cover, addressed to the register of the court in which the cause may be depending, and superscribed with the name and official appellation of the person dispatching it, or that which he bore when the cause of action arose. The register of the court, immediately on receiving the instructions, is to deliver them sealed to the vakeel to whom they may be directed. In like manner, the vakeels in any of the courts to whom the pleading of such suits or appeals may be committed by commercial residents, or their head officers abovementioned, are authorized, either whilst their constituents remain in such office, or after they shall have been removed from it, to forward any papers which they may have to convey to their constituents, by the public dawk, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the vakeel; and the judge, or the register to the court, is to transmit the papers so sealed, in a cover sealed and addressed to the person to whom they are to be forwarded, and superscribed with his official signature."

The vakeels may in like manner forward instructions to their constituents through the register.

Section 25. Cases in which the Board of Trade are to take upon themselves the prosecution or defence of suits or appeals.

25. "In cases in which the Board of Trade may judge it expedient, or in which they may receive orders for the purpose from the Governor General in Council, they are to take upon themselves the superintendence of the prosecution or defence of any suit or appeal in which they or their officers may be engaged, either in a zillah or city court, or in a provincial court of appeal, or in the Sudder Dewanny Adawlut, instead of leaving the superintendence of the conduct of the suit or appeal to the resident, or any of his officers."

Section 26. Residents and their head officers not to derive any advantage from suits.

Nor to sustain any loss if their conduct be approved.

26. "Neither the commercial residents, nor their head officers of aurungs or kotees, are to derive any advantage whatever from suits in the courts of justice in which they may be engaged, or in any wise concerned, in their official capacity. On the other hand, it is not intended, that the residents, or their abovementioned officers, should sustain any loss in consequence of such suits, where their conduct may be adjudged to be conformable to the regulations, or may be approved by the Board of Trade, or the Governor General in Council. The commercial residents, and their head officers of aurungs or kotees, are accordingly to bring to the credit of the company, in their accounts

counts, all sums whatever that may be adjudged to them by any of the courts of justice; and they are to note at the foot of their accounts, or in a separate account, or under a distinct head in their accounts, according as the Board of Trade may direct, all sums which they may disburse, or be adjudged to pay; on account of suits in which they may be engaged, or be concerned, in their official capacity; but no such disbursements or payments are to be considered as passed to the debit of the Company, until the previous sanction of the Board of Trade, or the Governor General in Council, shall have been obtained for that purpose; and until such sanction is procured, the residents or the officers making the disbursements or payments, are to be held answerable for the amount." 27. "The rules in this regulation, respecting commercial residents, are to be considered equally applicable to their assistants having the charge of the business, or to any other person being a convenated servant of the Company, and entrusted with the superintendence of the provision of goods for the Company's investment, at any aurung, whatever may be his official appellation." 28. "If a weaver or manufacturer, or any native employed in the provision of the Company's investment, shall deem himself aggrieved by any act done in opposition to this regulation, by a commercial resident, or any covenanted servant of the Company having the charge of the business of an aurung, pursuant to special orders from the Board of Trade, or the Governor General in Council, he will be at liberty to seek redress in the mode prescribed for such cases in Section 11, Regulation 3, 1793.*

Sums disbursed by residents and their head officers, not to be carried to the debit of the Company without orders from the superior authorities.

Section 27. Rules regarding commercial residents applicable to their assistants or other servants entrusted with the business.

Section 28. Natives aggrieved under this regulation by special orders of the Governor General in Council or the Board of Trade, how to obtain redress.

The rules above stated, for the lower provinces, have been re-enacted for the upper provinces by Regulation 37, 1803; (extended by Section 25, Regulation 8, 1805, to the provinces ceded by Doulut Rao and the Peshwa;) and by Regulation 4, 1805, they were extended to the province of Benares, on the following ground, stated in the preamble to that regulation:—"It has hi-

Rules above stated, re-enacted for upper provinces, by Regulation 37, 1803 and extended to Benares by Regulation 4, 1805.

* See vol. I. pages 44, and 623; with the amended rule of proceeding to be observed by the zillah and city courts in such cases. Vol. II, page 423.

thereto

therto been the practice to provide the investment of the Honorable the East India Company in the province of Benares, by purchasing the goods brought for sale by the manufacturers with ready money; or by contracts made with native *dullols* or *dustoo-reeas*, for the provision of the goods; instead of making advances to the manufacturers, for the provision of goods of specified dimensions, and of a certain quality; in the manner observed in the provinces of Bengal, Behar, and Orissa. The adherence to the said system has operated to prevent the desired improvement of the fabrics, and to render the provision of the requisite quantity of goods uncertain. By making advances to the manufacturers for goods of the required quality and dimensions, under the rules contained in Regulation 31, 1793, and by extending the said regulation to the province of Benares, the commercial officers of the Company will be enabled to effect the desired improvements in the quality of the manufactures; and to ensure the punctual delivery of the required quantity of goods; and the Company, the weavers, and other manufacturers, and the private traders of every description will, under the protection of the laws, be secured in their just rights, in the transaction of their respective concerns; according to the tenor of the agreements under which such concerns may be conducted." Section 70, Regulation 22, 1795, recognizes a previous general notification, published throughout the zemindary of Benares, "prohibiting all persons, whether British subjects or natives, from having recourse to any compulsion in carrying on trade, or forcing advances on the sellers, or taking the goods of any ryot or trader through violence, under the plea of purchasing them." The following orders, noticed in Section 85, are also still in force, under Section 89, of the same regulation:—"In consequence of complaints preferred by the weavers in the sircar of Ghazeepore, of the impositions practiced on them by the dullols and dustoories, orders were issued on the 22d of March, and 22d of July 1790, notifying that the weavers throughout the four sircars, composing the zemindarry of Benares, were to be considered as having the option of carrying on their business, either through

Rules before promulgated in this province, and confirmed by Sections 70, and 85, of Regulation 22, 1795.

through or without the interference of the above named intermediate agents; and that they were at full liberty to bring their cloths into any bazar or market, and freely to dispose of them to the best advantage; and that no person was to presume, on any pretence, to fix any price on their goods; and that they were to sell their fabrics to whomsoever they might think proper; and for such price, as they and the purchaser might mutually and voluntarily settle."

Provisions of Regulation 7, 1805, for allowing commercial residents, when appointed to offices in which private trade is prohibited, to retain their commercial concerns, for a limited period, with a view to their adjustment.

The commercial residents, who, in general, act as agents for the Company, (not as contractors,) are permitted to trade on their own account, under the restrictions which have been cited from the rules prescribed for their conduct. But as they are occasionally appointed to other offices, in which a personal concern in any commercial transaction is prohibited by the oath directed to be taken by persons holding such offices; and the immediate relinquishment of their commercial concerns, in such cases, might expose them to considerable loss and inconvenience; it was considered by the Governor General in Council (as declared in the preamble to Regulation 7, 1805,) "just and equitable that such civil servants should be allowed a reasonable period of time for the adjustment of their commercial concerns, in cases in which such indulgence can be granted, without detriment to the public service;" and the following rules were accordingly enacted by that regulation, "to be in force in the several provinces subject to the immediate government of the presidency of Fort William." §. 2. "In instances in which a covenanted civil servant of the Company, not holding any public office, or holding any public office in which he is not restricted from engaging in commercial transactions by any regulation printed and published in the manner prescribed by Regulation 41, 1793, and Regulation 1, 1803, shall have engaged in any commercial transaction; and, subsequently to his engaging in such transactions, shall be appointed to an office in which he is prohibited by any regulation, printed and published as aforesaid, from engaging in commercial concerns; it shall be competent

Section 2. Competent to the Governor General in Council, by an Order in Council, in certain cases, to grant a temporary exemption to covenanted civil servants, from subscribing that part of the oath prescribed to be taken by civil servants appointed to certain offices, which restricts them from being concerned in trade.

petent to the Governor General in Council, by an Order in Council, whenever he shall see good and sufficient reason for affording such relief, to grant a temporary exemption to such civil servant, from subscribing to that part of the oath prescribed by the regulations to be taken by covenanted civil servants of the Company, who may be appointed to exercise certain public offices, whereby they are restricted from being concerned in any commercial transaction whatever; and it shall be competent to the Governor General in Council to grant such exemption, for such period of time as he shall judge reasonable, for enabling such civil servant to bring his commercial concerns to a termination." §. 3. "Whenever a civil servant shall be desirous of availing himself of the benefit of this regulation, he shall state, in writing, to the Governor General in Council, the nature of the commercial transactions in which he is engaged; and the name or names of the place or places at which they are conducted; and the Governor General in Council will refer such statement to the Board of Trade; which Board, in instances in which the grant of indulgence shall appear to them to be indispensably necessary, shall report their opinion to the Governor General in Council, as to the period, which they may deem it would be reasonable to allow such servant to adjust his concerns."

Section 3. Application for such indulgence to be made to the Governor General in Council, who will refer the same to the Board of Trade, for report.

§. 4. "In instances in which a temporary exemption from subscribing the part of the oath in question shall be granted, under this regulation, a clause shall be inserted in the oath, specifying the nature of the commercial concern in which the servant to whom the exemption may be granted is engaged; the name of the zillah, or place, in which the concern is conducted; and the period at which his interest in such concern shall cease and determine."

Section 4. An additional clause to be inserted in the oath, when exemptions shall be granted under this regulation.

§. 5. "Provided, however, that it shall not be competent to the Governor General in Council to exercise the power reserved to him by this regulation, in cases in which the commercial concerns of such civil servant shall be conducted within the district or place to which the authority of his office, the oath prescribed for which restricts the person holding the same from engaging in commercial concerns, shall extend; or in cases in which, in the judgment

Section 5. In what cases exemptions shall not be granted under this regulation.

judgment of the Governor General in Council, the official powers of such servant might be improperly employed in aid of such concerns; or in any cases in which the allowing such servant to be engaged in any commercial concern, for a limited period of time, might, in the opinion of the Governor General in Council, prove injurious to the public service. In all such cases, such servant shall immediately relinquish his commercial concerns; and subscribe the established oath prescribed for the office to which he may be appointed; and in which he is prohibited from engaging in commercial concerns; or, in the event of his declining to subscribe such oath, he shall be removed from his office."

Commercial concerns to be immediately relinquished in the foregoing cases, and the oath to be subscribed. Otherwise the civil servant will be removed from his office.

Number of commercial residencies in the several provinces.

It will be sufficient to add, under the present head, that there are now (in 1817) thirteen commercial residencies in the provinces of Bengal, and Orissa;* one at Patna for the province of Behar; one at Benares for that province and part of the adjacent ceded provinces; viz. Goruckpore, Mow and Azimghur; and one at Etawah and Culpee in the more western ceded provinces. The commercial residents have, in general, an assistant in the civil service of the Company; and an establishment of native officers, whose appointment and removal are regulated by the provisions in Regulations 5, 1804, and 8, 1809, already mentioned.† The whole of the commercial residents are subordinate to the Board of Trade at the presidency, which is composed of two members, besides the nominal president, a member of the supreme council. The Board of Trade have a secretary, sub-secretary, and accountant; besides distinct officers in the export and import warehouses; as well as in their separate capacity of *Marine Board*. But the rules of proceeding, by which the Board and their officers are governed in those departments respectively, have not been printed and published in the form of regulations; and do not therefore come within the plan and object of this Analysis.

Assistants and establishments of native officers under commercial residents.

Commercial residents subordinate to Board of Trade; Constitution and officers of that Board.

* The stations of the residents are as follows:—1. Bauleah. 2. Chittagong and Luckipore. 3. Commercolly and Hurriaul. 4. Cossimbazar. 5. Dacca. 6. Golagore and Hurripaul. 7. Jungeepore. 8. Malda. 9. Radanagore. 10. Rungpore. 11. Santipore. 12. Soonamooky. 13. Keerpoy and Midnapore.

† Vol. II. page 153 to 163.

SECTION

SECTION II.

TRADE ON SYLHET FRONTIER.

Resolutions of Government passed in October 1790, for regulating the trade in chunam and other articles, on the eastern frontier of Bengal, in the district of Sylhet.

DISTURBANCES having occurred between the inhabitants of the Company's territory on part of the eastern frontier of Bengal, and the Cosseas and other mountaineers, with whom a commerce in chunam, or lime stone, wax, ivory, and other articles, was maintained; sundry resolutions, for regulating this trade, were passed by the Governor General in Council on the 8th October 1790, and published in the Calcutta Gazette.* These resolutions, with modifications, were afterwards enacted into a regulation (1, 1799) "for declaring a general freedom of trade in chunam and other articles on the frontier of Sylhet, subject to certain provisions;" and the following rules thereby established are still in force. §. 2. "The trade on the frontier of Sylhet with the Cosseas and other mountaineers, as well all other persons, is declared free to the native inhabitants of the district of Sylhet, as well as to all other natives of the Company's provinces; and to Armenians, Greeks and all other persons whatever, not being British born subjects; as well as to such British born subjects as may be authorized by a licence from Government to reside in the district of Sylhet. Provided, with respect to all descriptions of persons, that the trade be carried on under the general restrictions contained in the following section." §. 3. *First.* "In consequence of former disturbances, and to prevent a renewal of them, no trade or intercourse whatever shall be carried on by any person resident in the Company's provinces, with the country lying to the north west of the Surmah river.". *Second.* "No person shall supply the Cosseas or other hill people with arms, ammunition, saltpetre, sulphur, or other articles of military store." *Third.* "No burkundasses or other armed men, belonging to individuals, (excepting such as may be indispensably necessary for their personal safety, or the security of their property,) shall be allowed on any pretence to pass to, or beyond Laour, or beyond any other part of the Company's frontier, especially beyond the Surmah river." § 4.

These resolutions, with modifications, enacted into a regulation.

Reg. 1, 1799. Sec. 2. Trade on the frontier of Sylhet declared free to all persons except unlicensed British subjects under the following restrictions.

Section 3. No intercourse to be carried on with the country north west of the Surmah river.

The cosseas, &c. not to be supplied with arms, ammunition, &c.

No armed men, excepting such as may be required for the personal safety of individuals, for the security of their property, to be permitted to pass the Company's frontier.

* See vol. III. of COLEBROOKE's Digest, page 446.

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"The magistrate of the district of Sylhet and his police officers are required to cause strict observance of the provisions contained in the foregoing section; and all contraband articles, which it may be attempted to pass by any of the frontier stations, against the prohibition contained in the Second Clause, as well as any property whatever which it may be attempted to transport beyond the Surmah river in opposition to the First Clause, together with all boats, carriages or cattle, which may be employed for the conveyance thereof, are declared liable to seizure, and confiscation for the use of Government. The police officers stationed at Laour, and at the other frontier stations, are authorized to search all boats, carriages, and carriage-cattle, for the purpose of ascertaining whether they contain any of the above mentioned contraband articles; (detaining them no longer than may be absolutely necessary for this purpose;) and if any such be found, they are to seize and send them, with the boat, carriage, or cattle, used in the conveyance of them, to the magistrate of Sylhet; who shall make a full enquiry into the circumstances of the case; and if he be satisfied that the articles seized are liable to confiscation under this regulation, shall declare the same confiscated; and report his proceedings to the Governor General in Council, for his orders as to the disposal of the property, or otherwise. The magistrate shall also report to the Governor General in Council any instances of persons, whether British subjects or others, acting in opposition to the Third Clause of the preceding section, for such orders as may appear necessary; and any British subject or other European, as well as any Armenian, Greek, or other person whatever, not being a native inhabitant of the district of Sylhet, who may be found to have acted in opposition to any part of Section 3, of this regulation, or who may be guilty or any misconduct in his intercourse with the hill people, will be considered to have forfeited all title to remain in the above district; and be liable, at the pleasure of Government, to be sent to Calcutta." §. 5. "The police officers who may seize any property declared liable to confiscation under the preceding article

Section 4. All contraband articles liable to seizure in the attempt to pass the frontier or cross the Surmah river against the prohibitions contained in the foregoing section;

and to be confiscated for the use of Government.

Police officers authorized to search all boats, &c. and in case of finding contraband articles, to send them to the magistrate, who may declare them confiscated and report his proceedings to Government.

Magistrate to report deviations from the Third Clause; and any person not being a native inhabitant of Sylhet, found to have acted contrary thereto, may be sent to Calcutta at the pleasure of Government.

Section 5. Police officers entitled to twenty-five per cent. on the proceeds

of contraband property seized by them, and persons giving information of such property, entitled to a similar reward on the seizure thereof.

Persons seizing or informing of goods not afterwards found liable to confiscation, may be sued by the proprietors for damages.

ticle shall be allowed twenty-five per cent on the proceeds of the sale thereof; and if the seizure shall have been made upon information from any other person, the same reward shall be granted to the informer. Provided, however, that if the property seized shall not be declared by the magistrate liable to confiscation, the person or persons who made the seizure, or who may have given any false information on which the seizure was made, shall be liable to be sued for damages by the proprietor in the zillah Dewanny Adawlut." §. 6. "Provided also, that any person dissatisfied with the magistrate's order for confiscation, under Section 4, shall be at liberty to state his objections to the Governor General in Council, who will afford such relief as may appear to him equitable, or leave the complainant to seek his remedy in the civil courts, in the mode prescribed in Section 11, of Regulation 3, 1793,* which is hereby declared to extend to any suits against Government which may be instituted for acts done under the present regulation; with this difference, that as the offices of judge and magistrate in the distirict of Sylhet, are vested in the same person, the party dissatisfied with the order of confiscation by the magistrate, and not obtaining relief from the Governor General in Council in the manner above provided, may, if he think proper, instead of suing Government in the zillah Dewanny Adawlut, as directed in Section 11, of Regulation 3, 1793, commence his suit in the first instance before the Dacca provincial court of appeal; who are required to receive and proceed upon the same in conformity to the above section, provided the suit be in all other respects regularly instituted according to the general regulations."

Section 6. Any person dissatisfied with the magistrate's order for confiscation, may apply for relief to Government, who will either afford it or leave him to sue in the civil courts under Section 11, of Regulation 3, 1793, which is extended to suits instituted under this regulation.

With this difference that the complainant may, if he thinks proper, commence his suit in the Dacca provincial court.

§. 7. "All Europeans and other persons, not being British born subjects, are, by the existing regulations, in common with the natives, declared amenable to the jurisdiction of the zillah courts; and British born subjects, permitted to reside at a greater distance than ten miles from Calcutta, are required by Section 2, of Regulation 28, 1793, (excepting the King's and Company's officers, and

Section 7. All Europeans, British born subjects and others, permitted to reside in Sylhet, to enter into a bond rendering themselves liable to the jurisdiction of the zillah court in causes to any amount instituted by the inhabitants of the hills on or near the Company's frontier.

* See vol. I. page 44, and further rule of proceeding in suits against Government, prescribed by Reg. 2, 1814, stated in vol. II. page 423.

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the civil servants of the Company,) to enter into a bond, rendering themselves amenable to the Dewanny Adawlut, within the jurisdiction of which they may reside, in all civil suits that may be instituted against them by the native inhabitants, for any sum of money or thing, the amount or value of which shall not exceed five hundred sicca rupees. As the Cosseas and other mountaineers on the frontier of Sylhet, from whom chunam and other articles of trade are purchased, could not, from their situation, prosecute claims upon British subjects for sums exceeding five hundred sicca rupees in the Supreme Court at Calcutta, such British born subjects as may be permitted to reside within the district of Sylhet, (with the above exception of King's officers, and civil and military servants of the Company,) shall, in addition to the form of bond prescribed by Section 3. of Regulation 28, 1793, execute a bond of similar tenor, but without the limitation of five hundred rupees, rendering themselves amenable to the jurisdiction of the zillah Dewanny Adawlut, in all civil suits, for whatever amount or value, that may be instituted against them by any of the inhabitants of the hills on, or contiguous to, the Company's frontier in Sylhet; and no British born subject, not being a King's officer, or in the civil or military service of the Company, who may be now in the Sylhet district, or who may be hereafter permitted to proceed thither, shall be allowed to remain therein without entering into the bond hereby required; any refusal to execute which is to be immediately reported by the zillah judge to the Governor General in Council, who will order the party to be sent to Calcutta."

No British born subject, not in the service, to be permitted to reside in Sylhet without entering into such bond; the refusal to execute which is to be reported to Government, who will order such person to be sent to Calcutta.

§. 8. "The provisions contained in this regulation render it unnecessary for any trader, whether native, European, or otherwise, to apply for the perwannahs which have been heretofore granted, by the collector or magistrate of Sylhet, to the thannadar of Laour, for the purpose of their being supplied with chunam; and all such perwannahs are hereafter expressly forbidden to be issued, as militating with the general freedom of trade meant to be established by this regulation. But nothing herein contained is to be understood to restrict the magistrate of Sylhet from issuing such instructions

Section 8. Perwannahs heretofore granted to traders, &c. to be discontinued.

structions to the police darogah at Laour, and to the other police officers within his jurisdiction, as he may consider necessary to carry into full effect the several provisions of this regulation; or to prevent disagreements and breaches of the peace between the traders and hill people on the frontier; so that such instructions be not repugnant to this, or any other existing regulation."

SECTION III.

OPIUM MONOPOLY.

Monopoly of opium, when assumed by the Company. And how conducted till the year 1797-8.

FROM the year 1773, when the monopoly of opium in the province of Behar was first assumed in behalf of the Company,* till the year 1797-8, when the present system of providing this article by agency in the provinces of Bengal, Behar, Orissa, and Benares, was established; and soon afterwards provided for by Regulation 6, 1799, "prescribing rules for the guidance of all persons concerned in the provision of opium on the part of Government by agency;" the exclusive manufacture of opium, on account of the Company, was let in farm; annually in the first instance, but from the year 1781, by successive contracts for four years each; the contractor engaging to deliver a specific quantity of opium, or all that could be provided, at certain rates to be paid by the Company. The mode of provision by contract however was found injurious to the quality of the opium; and the profits arising from the public sale of it in Calcutta, for the purpose of exportation to China and the Eastern Islands, were consequently much diminished.† The preamble to Regulation 6,

Reasons for providing the opium by agency, instead of contract.

* It had been previously a source of advantage to some of the Company's servants; and was managed by the officers of the Patna factory, so early as the year 1761. See ninth report of the Select Committee of the House of Commons, 1783. Page 350. This report and it's appendix contain also a history of the monopoly, from the period mentioned, to the time of Mr. SULIVAN's contract for four years, in 1781. See likewise COLEBROOKE's Digest, vol. 3, pages 396 to 423; and for the terms of the last contract, Regulations 32, 1793; and 32, 1795.

† An official statement of *the net profit derived from the Opium Department*, during a period of 24 years, viz. from 1789-90 to 1812-13, states the profit of 1796-7, at less than eight lacks of rupees; and that of the two preceding years, at less than five lacks each; whereas in 1812-13, it amounted to nearly eighty lacks.

1799,

1799, states, that "the revenue arising from opium having considerably declined during the latter years of the late contracts for the provision of that article, the Governor General in Council, with a view of restoring and improving this important branch of the public resources, resolved that the opium should in future be provided by agency;" and adds—"The following rules for securing to Government all the opium produced in the four provinces; for preventing the agents or their officers from compelling any person to cultivate the poppy, or committing oppression or injustice; for insuring to persons who may voluntarily enter into engagements for the cultivation of the popyy, the full price of the opium which they may agree to deliver; for guarding the agents against fraud on the part of the cultivators; and for punishing persons concerned in the illicit cultivation of the poppy, or in the illicit importation of, or traffic in, opium; are accordingly enacted, to be considered in force in the provinces of Bengal, Behar, Orissa, and Benares."

And rules enacted for this purpose in Regulation 5, 1799.

It is unnecessary to state the rules here referred to, or those subsequently enacted in Regulation 41, 1803, *for prohibiting the cultivation of the poppy in the provinces ceded by the Newab Vizier, and for preventing the illicit importation of opium into the said provinces;* (extended to the conquered provinces by Section 27, Regulation 8, 1805;) or the amendments of Regulation 6, 1799, contained in Regulations 5, 1807, and 6, 1809; with some additional provisions in Section 32, Regulation 9, 1810; and Section 17, Regulation 10, 1813; the whole of these rules and provisions being superseded by Regulation 13, 1816; "*for reducing into one regulation, with alterations and amendments, the rules in force respecting the manufacture and sale of opium.* The preamble to this regulation sets forth the grounds of it, in the following terms:—"Whereas rules have, from time to time, been enacted for the guidance of the persons concerned in the provision of opium at the agencies established on the part of the Government in the provinces of Behar and Benares, and for preventing

Unnecessary to state these rules, and other subsequently enacted, as the whole are superseded by Regulation 13, 1816.

Preamble to Regulation 13, 1816.

the illicit manufacture and sale of opium, and for regulating the internal sale and consumption of that drug; and whereas it has been deemed advisable to establish an agency in zillah Rungpore, for the provision of opium to be reserved exclusively for retail sale and consumption, within the provinces immediately dependent on the presidency of Fort William; and whereas it has appeared expedient, with the view of better securing the public revenue arising from opium, to enact further rules for the prevention of the illicit cultivation of the poppy, and the illicit manufacture, sale, and consumption of the drug; and to make provision, by better regulating its internal sale, for supplying the consumers of opium with the drug in a pure and unadulterated state, and for limiting the use of it, as far as possible, to cases in which it may be necessary or salutary; and whereas it will tend to the public convenience to consolidate the whole of the rules in force respecting this branch of the public revenue, into one regulation, with alterations and amendments; the following rules have been passed, to be in force throughout the provinces immediately dependent on the presidency of Fort William, from the date of the promulgation of this regulation."

Section 2. Specification of existing rules rescinded.

Section 2, rescinds Section 3, Regulation 32, 1795; Sections 7, 8, and 9, Regulation 1, 1797; Regulation 6, 1799; Regulation 41, 1803; Regulation 5, 1807; and Regulation 6, 1809; Section 32, Regulation 9, 1810; Clauses 3d, 4th and 5th, Section 17, Regulation 10, 1813; "together with such other parts of the same regulation as refer to the illicit manufacture and sale of opium, and are not specially re-enacted by this regulation." The remaining sections are *verbatim*, as follows:

Section 3. The cultivation of the poppy and manufacture of opium prohibited. Exception.

Section 4. The importation of opium prohibited.

3. "The cultivation of the poppy and manufacture of opium within any of the provinces dependent on the presidency of Fort William, excepting on account of Government, or with their sanction, are hereby prohibited." 4. "The importation of opium, the produce or manufacture of the territories of the Nawaub Vizier, the Mahratta territories, or of any foreign country, into the provinces dependent on the presidency of Fort William, or

or any of them, is hereby prohibited." 5. "The superintendence of the provision of opium shall, as heretofore, be intrusted to agents, or to such other officers, being covenanted servants of the Company, as the Governor General in Council shall appoint to the said duty." 6. "In addition to the agencies already constituted and existing in the provinces of Behar and Benares, an agency shall be established under the commercial resident at Rungpore, within such local limits as the Governor General in Council may, from time to time, direct, for the provision of opium, to be reserved exclusively for retail sale and consumption within the provinces immediately dependent on the presidency of Fort William, under the rules hereinafter prescribed." 7. "The rules contained in this regulation respecting the functions, duties, and authority, of agents for the provision of opium, are to be considered equally applicable to their deputies in charge of subordinate establishments, or to any other person, being a covenanted servant of the Company, and intrusted with the superintendence of the provision of opium." 8. "Every person who may be appointed an agent for the provision of opium on account of Government, or a deputy, or an assistant to such agent, previously to entering on the execution of the duties of his office, shall take and subscribe the following oath before the Governor General in Council, or any person whom he may commission to administer it.

Section 5. A covenanted servant of the Company to superintend the provision of opium.

Section 6. The commercial resident at Rungpore vested with the powers of an opium agent.

Section 7. Deputies in charge of subordinate establishments, to be guided by the same rules as agents.

Section 8. Form of oath to be taken by an opium agent, deputy, or assistant.

"I, A. B. appointed to the office of

swear, that I will render true and faithful accounts of the expenditure of the sums which may be advanced to me, and of the opium produced, whenever required; and that I will not, at any time, during the period of my holding the said office, have any concern in opium, or derive, directly or indirectly, any profit from my situation, excepting such as the orders of Government do or may authorize me to receive; or knowingly suffer any of my officers or dependants to derive any advantages or profits, but such as shall be duly allowed."

"So help me God."

9.

Section 9. Settlement to be made annually in writing with the ryots who may choose to cultivate the poppy.

9. "The agents employed by Government in the provision of opium, shall annually, in due time, previous to the proper period for issuing the advances, make a settlement with the ryots who may choose to engage to cultivate the poppy, of the prices to be paid for the opium in the ensuing season. In this settlement, the rate per seer in sicca rupees, as well as the weight of the seer, according to the number of sicca weight contained in the seer peculiar to each pergunnah, is to be specified. On the completion of such settlement, a copy and a translation of it shall be forthwith sent to the Board of Trade for their consideration; and on the agents' receiving their approval of it, copies of the settlement shall be sent by the agents to the several judges, and collectors of land revenue, or other officer in charge of the abkarry mehal, within whose jurisdiction the poppy is cultivated, to be fixed up in their court rooms, and cutcherries; and the price settled for each pergunnah shall also be published by the agent in the pergunnah to which it relates."

Section 10. Ryots may either enter into engagements to cultivate the poppy on account of Government, or decline cultivating it altogether.

10. "It is left to the option of every person to enter into engagements for the cultivation of the poppy on account of Government, at such prices as may be settled for the produce, or to decline the cultivation of it altogether."

Section 11. Nature of the engagements which the agents are to take from the cultivators of the poppy.

11. "The agent, or a person deputed by him, at the season of sowing the poppy, is to take an engagement from the cultivator, specifying the number of begahs agreed to be cultivated, with the amount of the advance received by him; and the cultivator shall be bound to cultivate that number of begahs, or be liable to a penalty of three times the amount advanced on each begah, and proportionably for any part of a begah not so cultivated. When the poppy shall be full grown, the agent is to depute a person, who shall proceed with the cultivator into the field, and with the assistance of two or three other creditable cultivators, form an estimate of what such field is likely to produce; whereupon the ryot or cultivator is to enter into an engagement to deliver so much, and should the field produce more, to deliver that also *pro-rato*. The agent shall, as soon as practicable after the sowing season, transmit a separate list of the cultivators,

cultivators, from whom he may take engagements in each pergunnah, to the magistrate and to the collector, or other officer in charge of the akbarry mehal of the zillah." 12. "Officers of every description in the employment of the agents, or their deputies, are prohibited from taking or receiving any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatever, from any ryots or other person employed or concerned in the provision of opium; and if any such description of person, subject to the authority of the agent, shall be convicted before the zillah or city magistrate, within whose jurisdiction the offence may have been committed, of disobedience to this prohibition, he shall, besides being dismissed from his office by the officer or authority to which he may be subject, be further liable to imprisonment for any term, not exceeding six months, which the court may judge proper, together with such fine, not exceeding 200 rupees, as may appear adequate to his offence, commutable, if not paid, to a further period of imprisonment, not exceeding six months; and upon the circumstances being represented by the Board of Trade to the Governor General in Council, he will, if it shall appear proper, declare the offender incapable of serving Government in any capacity thenceforward, and will cause the same to be published." 13. "The weights and scales made use of in the koties or warehouses in the different purgunnahs, for weighing the opium received from the ryots, are to be sealed with the seal of the magistrate of the district, and examined annually by him, or by such persons as he shall think proper to appoint for that purpose, during the month of January. The agents or their officers making use of weights or scales not so sealed, or knowingly using uneven scales or incorrect weights, though sealed, will be liable to such fine, not exceeding 500 rupees, as the magistrate may think proper to impose. The opium shall be fairly weighed in the presence of both parties by the beam being properly suspended to a triangle, or wooden stand or fixture, and every other mode of weighing will be considered as illegal." 14. "In the event of the cultivator failing to deliver the full quantity of opium agreed for by him in the manner specified

Sec. 12. Officers in the employ of the agents, or their deputies, prohibited from taking any gratuity.

Penalties on conviction.

Sec. 13. Weights and scales for weighing the opium to be sealed by the magistrate of the district.

How the opium is to be weighed.

Sec. 14. Stipulations concerning ryots who may

not deliver the full quantity of opium agreed for.

cified in Section II, if the agent shall suspect or believe the causes of failure to be in the wilful neglect of the ryot, he shall complain to the zillah or city judge within whose jurisdiction the land of the ryot may be situated, and if it shall be proved, to the satisfaction of the judge, that the failure has been owing to neglect, he is to award that the ryot shall restore the proportional advance, with interest at the rate of twelve per cent per annum. The ryot, so failing to fulfil his contract, shall likewise be liable, at the discretion of the judge, to a further penalty, not exceeding the amount of interest, to the payment of which he will be liable under the above provision." 15. "In cases in which the ryots shall deliver the opium in too liquid a state, or not inspissated to what is deemed by experienced persons the proper state of consistence, the agents or their officers are to appoint two or more creditable opium ryots or cultivators to decide on their dherm, or conscience, what surplus quantity, or keirdah, shall be taken as an equivalent for the over weight arising from such want of consistence; and the parties shall abide by their award, unless it shall be proved to the satisfaction of the zillah or city judge, within whose jurisdiction the opium shall be delivered to the officer of Government, that the arbitrators have been guilty of partiality."

Sec. 15. Agents or their representatives how to proceed in cases where the opium is delivered in too liquid a state.

Sec. 16. Agents how to proceed where cultivators deliver in adulterated opium.

16. "Where the crude material shall be delivered in by the ryot or cultivator in an adulterated state, as by the mixture of foreign ingredients, the agents or their officers may immediately seize on, and declare the same confiscated; sealing it up at the same time in the presence of the ryot, and under his signature or mark, and in the presence of two or more creditable witnesses; depositing it also in a secure and separate place, and leaving the ryot to have recourse against them to the zillah or city court, for which purpose they are to keep the said opium thus sealed up for one month, and if, in that time, the ryot shall not lodge his complaint, it shall not afterwards be heard, and the agents shall then open the said opium and report the particulars of the case to the Board of Trade for their orders. Provided, further, that in such cases the said opium ryot or cultivator shall, on failure to

furnish

furnish the full quantity of opium agreed for by him, exclusive of the adulterated opium, be prosecuted in the Dewanny Adawlut of the city or zillah, and shall be liable to the penalty prescribed in Section 14, in the case of failure by wilful neglect, viz. to refund the proportional advance with interest, and an eventual fine." 17. "If any zemindar or other proprietor of land, or any farmer of land, or their representatives, should exact more from the ryots on account of their poppy lands than the established rates, the agent or the ryot, from whom such exactions may be made, is to be at liberty to prosecute the person guilty of such exactions in the zillah or city Dewanny Adawlut, the judge of which shall forthwith enquire into the same, and, on proof of the exaction, shall adjudge the person guilty of the offence to restore the amount levied in excess of the established rate, with a further penalty of treble the amount." 18. "The opium agents, and their native officers of every description, are declared amenable to the Dewanny Adawlut of the city or zillah, within the jurisdiction of which they may be stationed, for all acts done by them in their official capacity: Provided, however, that any person conceiving himself aggrieved by the act of an opium agent, or of any ministerial officer acting under his authority, shall, in the first instance, make application for redress to the agent himself; and in the event of his not being satisfied with the order which the agent may pass upon such application, it shall then be competent to him either to lay his case by petition before the Board of Trade, or at once to seek redress in the Dewanny Adawlut of the city or zillah, within the jurisdiction of which he may reside. The rules contained in Regulation 2, 1814,* shall be considered applicable to all cases that may arise under the operation of this section, and the course therein prescribed shall be observed in the admission of such cases." 19. "The opium agents shall not, in their official capacity, prefer any suit to any of the courts of Dewanny Adawlut without the previous sanction of the Board of Trade." 20. "The judges of the Dewanny Adawlut of the several cities or zillahs are to take cogni-

Sec. 17. Proprietors and farmers of land how to be proceeded against, in case they exact more than the established rents of the poppy lands.

Sec. 18. Agents and their officers liable to be sued in the zillah Dewanny Adawlut for breach of regulations under restrictions herein specified.

Rules contained in Regulation 2, 1814, applicable to cases under this section.

Sec. 19. Agents are not to prefer any suits without the sanction of the Board of Trade.

Sec. 20. Judges to take cognizance of all causes rela-

* Volume II. page 423.

tance

pecting opium with as little delay as possible.

zance of all causes, respecting opium, instituted by an agent or his representative, against the ryots or others concerned in the provision or manufacture of that article, or by the latter against the former, as well as suits preferred under the provisions of Section 17, of this regulation, against zemindars or other proprieters of land; and proceed to try and decide upon the same with as little delay as possible, and without attending to the order in which they may stand on the file. In all matters relating to the trial and decision of such suits, the payment of costs and the execution of decrees, not expressly provided for in this regulation, the courts shall be guided by the general rules and usages observed in other suits cognizable by them."

Courts to be guided by general rules in cases not expressly provided for in this regulation.

Sec. 21. Judges not to interfere with the powers vested in collectors and others for the cognizance of certain suits.

21. "Nothing however contained in the above sections shall be construed to authorize the courts of Dewanny Adawlut to interfere in cases, the cognizance of which is vested by this regulation in the collectors of land revenue, or other officers in charge of the abkarry mehal."

Sec. 22. Civil process to be issued to the agents under a sealed cover, and to be returned by them in like manner.

22. "When any process shall be issued by a court of civil judicature or a collector, assistant collector, or officer in charge of the abkarry mehal, to an agent, the judge or the register of the court, or the collector, assistant collector, or officer aforesaid, is to transmit the process under a sealed cover, addressed to the agent in the form of a letter, and superscribed with his name and official appellation. The agent is immediately to acknowledge the receipt of the process by an endorsement to that effect on the instrument, and to return it under a sealed cover, addressed to the officer from whom it may have issued."

Sec. 23. Communication by letter between agents and their officers and their vakeels, respecting suits in which they are concerned, to be free of postage.

23. "To facilitate the communication between the agents and their officers of kotees, and their vakeels in the zillah or city courts, or the provincial courts of appeal, and the Sudder Dewanny Adawlut, and the mookhtars employed by them, with the collector, or other officer in charge of the akbarry mehal, who may be entrusted with the conduct of any suits or appeals in which they may be engaged in their official capacity, either whilst they may continue in office, or after their removal, they are permitted to forward, free of postage, any instructions which they may have to transmit to their vakeels and agents aforesaid.

said. The instructions are to be enclosed under a sealed cover directed to the vakeel or mookhtar. The instructions, so sealed and directed, are to be transmitted, under a sealed cover, addressed to the register of the court, or the collector or other officer before whom the cause may be depending, and superscribed with the name and official appellation of the person dispatching it, or that which he bore when the cause of action arose. The register of the court, collector or other officer, immediately on receiving the instructions, is to deliver them sealed to the vakeel or mookhtar to whom they may be directed. In like manner, the vakeels in any of the courts, or mookhtars aforesaid, to whom the pleading of such suits or appeals may be committed, by agents or their head officers of kotees, are authorized, either whilst their constituents remain in office, or after they shall have been removed, to forward any papers which they may have to convey to their constituents by the public dawk, free of postage. The papers are to be enclosed in a cover sealed with the seal of the vakeel or mookhtar, and the judge, or the register to the court, or the collector, or other officer before whom he is employed, shall transmit the papers so sealed, in a cover, sealed and addressed to the person to whom they are to be forwarded, and superscribed with his official signature." 24. "In cases in which the Board of Trade may judge it expedient, or in which they may receive orders for the purpose from the Governor General in Council, they are to take upon themselves, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal, in which they, or their officers, may be engaged, either in a zillah or city court, or in a provincial court of appeal, or in the Sudder Dewanny Adawlut; or before a collector of the land revenue, or other officer in charge of the abkarry mehal, or before the Board of Revenue, the Board of Commisssioners, or the commissioner in Behar and Benares; instead of leaving the superintendence of the conduct of the suit or appeal to the agent, or any of his officers, or dependents." 25. "If the Board of Trade shall be dissatisfied with a decree or judgment passed

Rules in such cases.

Sec. 24. Board of Trade may take upon themselves the prosecution or defence of the suits.

Sec. 25. Board of Trade may authorize an appeal, if

 against

Dismissed with a decree or judgment.

against an agent, or any of his officers, on suits in which they may have been engaged in any court of civil judicature, or before a collector of land revenue, or other officer in charge of the abkarry mehal, under the rules hereinafter prescribed, either with or without their orders, or the orders of the Governor General in Council, they may authorize an appeal under the prescribed rules."

Sec. 26. The provisions of Clause 4 to 10, inclusive, of Section 10, Regulation 31, 1793, extended.

26. "The provisions contained in Clauses 4th, 5th, 6th, 7th, 8th, 9th, and 10th, Section 10, Regulation 31, 1793,* are hereby extended to the undermentioned officers employed under the agents for the provision of opium:

The Dewan,
Naib Dewan,
Cash-keepers,
Mohurrers,
Nagree Writers,
Godown-keepers,
Gomashtahs of kotees,
Cash-keepers ditto,
Mohurrers ditto,
Purkeas,
Dandidars."

Sec. 27. Register of the officers above enumerated to be formed, and copy to be transmitted to specified public functionaries.

27. "A register of the names and stations of the officers enumerated in the preceding section shall be formed, and a copy of such register in the native languages shall be transmitted, once in every year, to the judge and magistrate, and the collector or other officer in charge of the abkarry mehal of the zillah in which such officer may reside. It shall also be the duty of the agent to keep the judge and magistrate, and the collector or other officer aforesaid, informed of any intermediate change of those officers."

Sec. 28. Objects of the following sections.

Duties of the magistrates, and other public officers, on receipt of the lists furnished to them under Section 11, of

28. "The following rules are enacted for the prevention of the illicit culture of the poppy; and the illegal manufacture, sale, purchase, importation, transportation or possession of opium." 29. "The several magistrates, and the collectors or other officers in charge of the abkarry mehal, on the receipt of the list of the opi-

* See present Volume, page 602 and Sequel.

um ryots or cultivators directed to be furnished to them by Section 11, of this regulation, shall transmit to the several police and abkarry darogahs, under their respective authority, a copy of the list of the cultivators residing in the pergunnahs within the respective jurisdiction of each darogah; with directions to prevent persons, who may not have entered into engagements with the opium agent, from cultivating the poppy; and all darogahs, within whose jurisdictions there may be no opium cultivation on the part of Government, shall be annually instructed by the several magistrates and collectors; or other officers aforesaid, to use their endeavours to prevent the illicit culture of the poppy." 30. "Ryots receiving advances for the cultivation of the poppy on account of Government, who may be guilty of embezzlement of the opium, for the provision of which they may have received advances from Government, or of otherwise illegally disposing of it, shall be liable to prosecution before the collector of the land revenue, ro other officer in charge of the abkarry mehal of the district; and on conviction shall be liable to a fine of 8 rupees per seer, and confiscation of the opium, if it can be seized, and when it cannot be seized, to a fine of 16 rupees per seer, on the quantity proved to have been embezzled or otherwise illegally disposed of. In addition to the above penalties, the offenders shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment, not exceeding six months more, in the event of the fine not being duly discharged." 31. "Any person who shall cultivate the poppy in opposition to the prohibition contained in Section 3, of this regulation, shall be liable to prosecution before the collector of the land revenue, or other officer in charge of the abkarry mehal of the district; and on conviction shall be subject to a penalty, to be calculated at the rate of 20 sicca rupees per bégah for whatever quantity of land shall have been so illegally cultivated; and if the poppy plants shall be growing on the said land, and the opium shall not have been extracted therefrom, the plants shall be destroyed. If the opium shall have been extracted, and shall be seized, the same shall be confiscated. If the

this regulation, defined.

Sec. 30. Penalty against ryots, convicted of embezzlement of opium.

Sec. 31. Persons illicitly cultivating the poppy, liable to prosecution and penalty on conviction.

opium

opium shall have been extracted, and shall not be seized, the cultivator of the said land shall be subject to a penalty of 32 sicca rupees per begah, instead of 20 sicca rupees per begah, as above directed. In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment, not exceeding six months, more in the event of the fine not being duly discharged." 32. "All zemindars, talookdars, and other proprietors of land, whether malgoozary or lakheraj, all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs, gomastahs and other local agents, all sezawuls, tehsildars, and other native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards, are hereby declared accountable for giving the earliest information to the police or abkarry darogahs, to the magistrates, collectors of land revenue, or officers in charge of the abkarry mehal, collectors of customs, opium agents or their deputies, of all poppy which may be illegally cultivated within the limits of the estate or farm held or managed by them." 33. "Any landholders, or other description of persons above noticed, to whom such responsibility is declared to attach, who may wilfully or knowingly neglect to give the information hereby required to the nearest police or abkarry darogah, the magistrate, the collector of land revenue, or officer in charge of the abkarry mehal, the collector of Government customs, the superintendent of salt chokies, the opium agent, or his deputy or assistant, shall, on proof of such neglect before the collector of the land revenue, or other officer in charge of the abkarry mehal, be liable to the penalty, with the exception of imprisonment, stated in Section 31, for whatever quantity of land shall be illegally cultivated with the poppy on their respective estates or farms, or on the lands under their management, unless it shall clearly appear to have been so cultivated without their knowledge or connivance." 34. "All native officers of Government of whatever description are hereby strictly enjoined, under pain of dismission from office, and such punishment as shall be specially prescribed, to give immediate

Sec. 32. Landholders of every denomination, as well as their subordinate officers, to give the earliest information of all poppy illegally cultivated within the limits of their estates.

To whom the information is to be given.

Sec. 33. Penalty in the event of their neglect or connivance being established.

Sec. 34. Native officers of Government to give similar information to the authority under whose

mediate information to the authority under whom they are placed, of all poppy which may be illegally cultivated within their knowledge, and the magistrate or other authorities, above alluded to, who may receive information of such illicit culture, shall immediately transmit the information so received to the collector of the zillah or other officer in charge of the abkarry mehal."

they are placed. The officer in charge of the abkarry mehal to be immediately made acquainted with the information obtained.

35. "Whenever a police or abkarry darogah shall obtain intelligence of any land within his jurisdiction having been cultivated with the poppy, in opposition to the prohibition contained in Section 3, of this regulation, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subject. Such police or abkarry darogah shall, at the same time, take security from the cultivator of the said ground, for his appearance before the collector or other officer in charge of the abkarry mehal; and in the event of such cultivator not giving the required security, he shall send him in custody to the magistrate or the collector, or other officer in charge of the abkarry mehal, according to the authority under which such darogah is placed, with the necessary witnesses to prove the quantity of land, which may have been cultivated by him with the poppy."

Section 35. Duties of a police or abkarry darogah, on receiving intelligence of the cultivation of the poppy in opposition to the provisions contained in Section 3. of this regulation.

36. "Any police or abkarry darogah, who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall in any respect be convicted of conniving at the illicit cultivation of the poppy, shall, besides being liable to dismission from office for neglect of duty under the existing regulations, be further subject, on conviction before the magistrate of the zillah, to the payment of the fine stated in Section 31, for whatever quantity of land shall have been so illegally cultivated within his jurisdiction, with his knowledge or connivance. The fine, if not duly paid, shall be commutable to imprisonment, for a period not exceeding six months."

Section 36. Police and abkarry darogahs declared liable to fine and imprisonment, if convicted of permitting or conniving at the illicit cultivation of the poppy, in addition to dismission from office.

37. "Any subordinate officer of the opium agents, who shall be convicted of conniving in any way at the illicit cultivation of the poppy, shall in like manner be liable to dismission from office, and to pay, on conviction before the magistrate, the

Section 37. Subordinate officers of the opium agents declared subject to certain penalties, on conviction of the like offences.

fine (commutable as above) stated in Section 31, for whatever quantity of opium shall have been so illegally cultivated with his knowledge and connivance; and likewise to imprisonment for a period not exceeding six months." 38. "Proprietors and farmers of land, in whose estates or farms any poppy shall be grown in opposition to the provisions of this regulation, shall be at liberty to attach such illicit crop of poppy grown within their own estates: such persons shall immediately report the same to the nearest police or abkarry darogah, who shall proceed thereupon in conformity to the rules contained in Section 35, of this regulation."

Section 38. Landholders may attach illicit crop of the poppy grown within their own estates.

Immediate information to be given to police or abkarry darogah. Their duties.

39. "All opium, excepting that which may have been manufactured on account of the Government, or sold by their authority, which may be found within the provinces dependent on the presidency of Fort William, will be considered as contraband; and shall be liable to seizure and confiscation, together with the boats, carriages, cattle, and packages, used in the storing or transport of it."

Section 39. What opium shall be considered contraband, and liable to seizure and confiscation.

40. "Persons who may be desirous of exporting by sea opium purchased at the Company's sales, shall produce a certificate from the Board of Trade, or one of their authorized officers, signifying that the opium in question was so purchased. The certificate must specify the purchase, lot, the mark and number of each of the chests applied for; the name of the purchaser; the cost of the opium; and the date of the sale. Any opium not corresponding with the certificate shall be liable to confiscation."

Section 40. Rule to be observed by purchasers of opium at the public sales, when desirous of exporting it by sea. Certificate.

Opium not corresponding with the certificate liable to be confiscated.

41. "The following officers are hereby declared to possess authority to seize all opium, together with the cattle, carriages, boats and other articles, which, under the provisions of this regulation, may be liable to seizure and confiscation; viz. the opium agents, their deputies and assistants; zillah and city magistrates; collectors of land revenues, or officers in charge of abkarry mehal, or both, where the offices may be separated; collectors and deputy collectors of customs; superintendents of salt chokies, and their subordinate officers respectively, being above the rank of peons; burkundazes, or ordinary chuprassees; Provided, however, that no person shall break open any boat, carriage, chest, cask, box, bale, package,

Section 41. Officers empowered to seize opium, together with the cattle, carriages, boats, and other articles.

Boats, carriages, &c. not to be broken open. Exception.

package, or other article suspected to contain opium, except under a warrant from the magistrate or collector of the district, or other officer in charge of the abkarry mehal; and any person detaining on such suspicion, otherwise than under the orders of one of these two last mentioned officers, any boat, carriage, cask, chest, box, bale, or package, shall be liable, if no contraband opium be found, and if the detention appear to have been made without sufficient cause, to be adjudged by the collector of the zillah, or other officer in charge of the abkarry mehal, to pay to the party injured the damages he may have sustained by such detention. Provided further, that all native officers making a seizure under the powers vested in them by this regulation, shall, within 24 hours of making such seizure, communicate their having done so, with a report of the circumstances connected with the seizure, to the authority to which they may be respectively subject; and any magistrate or other officer, to whom a seizure may be thus communicated, shall immediately transmit the report to the collector of the zillah, or other officer in charge of the abkarry mehal; to whom all opium so seized shall be delivered." 42. "All native officers of Government, of whatever description, are hereby strictly enjoined, under pain of dismission from office, and the penalties hereinafter specially provided, to assist in suppressing the illicit manufacture, sale, purchase, importation, transportation; or possession of opium, by seizing the same, if authorized to do so, or, if not vested with power of seizure, by giving immediate information to the authority to which they may be respectively subject, of all instances of such illicit manufacture, sale, purchase, importation, transportation, or possession of opium, which may come to their knowledge; any magistrate or other officer to whom such information may be given, shall immediately transmit the same to the collector of the zillah, or other officer in charge of the abkarry mehal." 43. "When any opium shall be seized and delivered to the collector of the zillah or the assistant collector, in places where such officers are appointed, the collector or assistant collector (as the case may be,) shall issue a publication, notifying, that if no claimants thereto shall appear within

Remedy to the party injured.

Duty of the native officers, on making such seizure.

Information to be immediately communicated to the collector, or other officer in charge of the abkarry mehal, to whom all opium so seized shall be delivered.

Sec. 42. Duties of native officers in the suppression of the illicit manufacture, sale, purchase, importation, transportation, or possession of opium.

Duty of the magistrate or other officer, to whom such information may be communicated.

Sec. 43 When any opium shall be seized and delivered to the collector or assistant collector, rules to be observed.

within one month, it will be confiscated. If any claimant shall in consequence appear within the limited period, the collector is to investigate and decide on his right to the opium; and in the event of his deciding against the claimant, or of no person appearing to claim the opium, he is to declare the opium confiscated, to be applied in such mode as may be prescribed by the Governor General in Council." 44. "All boats, carriages, bales, casks, chests, boxes, or packages, on which, or in which any contraband opium may be loaded or concealed, together with all horses, bullocks, or other cattle employed in its transportation, are hereby declared to be liable to confiscation; and they shall be delivered to the collector of the zillah, or other officer in charge of the abkarry mehal; by whom they shall, on the confiscation of the opium, be sold, and the proceeds disposed off in the manner hereinafter prescribed." 45. "All persons who may be proved to have purchased contraband opium, or in whose possession contraband opium may be found, shall be liable to prosecution before the collector of land revenue, or other officer in charge of the abkarry mehal; and on conviction shall be subject to a fine of eight Sicca Rupees per seer, on the quantity of contraband opium which they may have purchased, or may have in their possession; in addition to the confiscation of the opium when it can be seized, and when it cannot be seized, 16 Sicca Rupees per seer of eighty Sa. Wt. to be recoverable by suit or information before the collector of the zillah, within whose jurisdiction the offender may reside. In cases in which the above fine shall not amount to Sicca Rupees 500; the said offender shall likewise be liable, at the discretion of the collector, or other officer in charge of the abkarry mehal, to a further fine, not exceeding such sum as shall make the total fine imposed amount to Sa. Rs. 500. In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding 6 months; and to further imprisonment not exceeding 6 months more, in the event of the fine not being duly discharged." 46. "All zemindars, talookdars, or other proprietors of land, whether malgoozary or lakeraj; all farmers of land, holding farms immediately of

Sec. 44. Boats, bullocks or other cattle, and the carriages on which contraband opium may be loaded, liable to confiscation.

Sec. 45. Penalties against persons proved to have purchased contraband opium, or having it in their possession.

Sec. 46. Landholders and local agents, and native officers, employed in the collection of the

of Government, all naibs, gomastahs, or other local agents, all sezawuls, tehsildars, or other native officers employed in the collection of the revenue or rents of lands on the part of Government, or court of wards, (when not themselves the purchasers or possessors of the opium,) are declared liable to the like penalty, recoverable as above described, for all contraband opium which may be proved to have been sold within the limits of the lands in their possession or management, with their connivance or knowledge; that is to say, eight Rupees per seer, when the opium may be seized, and when it cannot be seized, sixteen Rupees per seer, of eighty Sa. Wt." 47. "All native officers of Government or other persons, who may give information of the illicit culture of the poppy, or the illegal manufacture, sale, purchase, importation, transportation, or possession of opium, or who may be actively concerned in promoting any lawful seizure of contraband opium, or attachment of crops, under this regulation, shall, on the attachment of land illegally cultivated with the poppy, or the seizure and confiscation of contraband opium, be entitled to the rewards hereinafter prescribed." 48. "The opium agent of Behar and his deputies, the commercial residents at Ghazeepore and Rungpore, or other officers, to whom the superintendence of the provision of opium at those places may be entrusted; the collectors and deputy collectors of customs, and the superintendents of salt chokies, shall be entitled to the rewards hereinafter prescribed, in the cases hereinafter specified." 49. "In any cases in which the fine of sixteen Rupess per seer, on opium embezzled by ryots cultivating on account of Government, shall be levied, *when the opium may not be seized*, in conformity to Section 30, of this regulation; or in which the penalty specified in Sections 31, 33, 36, and 37, shall be levied on account of the illegal cultivation of the poppy, when the crop shall be destroyed, or when the opium produced shall not be seized; one-half of such fine shall be paid to the person, in consequence of whose information the fine shall have been so levied, whether he be an officer of Government or not." 50. "All illicit opium that may be seized shall be valued at ten Rupees per seer, and the

revenue, or rents of lands, on the part of Government, or court of wards, declared subject to what penalties.

Section 47. Rewards to be granted to native officers, and others, giving information regarding the illicit culture of the poppy, or illegal transfer of contraband opium.

Section 48. What other public officers shall be entitled to rewards.

Section 49. Amount of the reward to be given to the person on whose information the penalty may be levied, if the crop be destroyed or opium be not seized.

Section 50. Valuation of opium seized. In what proportions

 person

and to what persons rewards are to be distributed.

person or persons who may give information of opium illegally cultivated, sold, purchased, or transported within, or imported into, any of the provinces dependent on the presidency of Fort William, or of any description of contraband opium, provided such opium be attached and confiscated in consequence of his or their information, shall be entitled to a reward calculated at the rate of two Rupees eight annas per seer, of eighty Sicca Weight, on the quantity of opium so attached; and also to one-fourth of any fine that may be levied conformably to this regulation, in consequence of the confiscation of the opium in question. The subordinate officers of Government, to whom the information may be given, and who may be immediately concerned in making the attachment, shall be entitled to the same reward, that is to say, to two Rupees eight annas per seer, of eighty Sicca Weight, on the opium confiscated, and to one-fourth of the fine levied; subject, however, to the discretion of the collector of the land revenue, or other officer in charge of the abkarry mehal; or in case of appeal from the order of confiscation passed by that officer, subject to the discretion of the authority by which the final judgment shall be passed; to make the distribution of the reward to one or more persons, as their conduct may respectively appear to merit. The opium agent of Behar and his deputies, the commercial residents at Ghazeepore and Rungpore, or other officers to whom the superintendence of the opium agency at those places may be entrusted; the collectors and deputy collectors of customs, and the superintendents of salt chokies, shall be entitled to a reward of five Rupees per seer, of eighty Sa. Wt. on the quantity of opium so attached by the subordinate officers, acting under their controul respectively, and to one-half of the fine levied; subject, however, to the discretion of the Board of Revenue, the Board of Commissioners, and the commissioner in Behar and Benares, as the case may be, to make the distribution of the reward to one or more of the above officers, as may be deemed fair and reasonable, on a consideration of the circumstances of the case." 51. "In case any attachment should be made of such opium exclusively by the officers of Government, and not upon information

Section 51. Specification of rewards in the event of contraband opium being seized by the officers of Go.

given

given by other persons, the opium agent of Behar or his deputy, the commercial resident of Ghazepore or Rungpore, the collectors or deputy collectors of customs, and the superintendents of salt chokies, by whose subordinate officers the seizure may have beeen effected, shall be entitled to a reward of five Rupees per seer, of eighty Sicca Weight, on the quantity of opium confiscated, as well as to one-half of any fine that may be levied thereupon; and the subordinate officers, concerned in making the seizure, shall be entitled to a reward of five Rupees per seer, of eighty Sicca Weight, on the quantity of opium confiscated in consequence, as well as to one-half of any fine that may be levied thereupon."

vernment, and not upon information given by other persons.

52. "The opium agent of Behar or his deputy, the commercial resident of Ghazeepore or Rungpore, or other officers, to whom the superintendence of the provision of opium at those places may be entrusted; the collectors or deputy collectors of customs, and the superintendents of salt chokies, shall be entitled to one-half of the amount proceeds of the sale of any confiscated boats, carriages, bales, casks, chests, boxes, packages, horses, bullocks, or other cattle, which may have been seized by their subordinate officers respectively. One quarter of the amount proceeds of the sale of such confiscated articles shall be paid to the subordinate officers concerned in effecting the seizure, if the seizure be made on information given; and one quarter of the amount proceeds thereof shall be paid to the informer, in consequence of whose information the boats, carriages, &c. may have been seized and confiscated. In cases where the seizure may have been made exclusively by the officers of Government, and not on information, the subordinate officers concerned in making the seizure shall be entitled to one-half of the amount proceeds of the sale of the confiscated articles above mentioned."

Section 52. Rule to be observed in the distribution of the proceeds of the sale of any confiscated boat, carriages, &c. &c.

In the event of the seizure being made on information.

In the event of the seizure being made by the officers of Government exclusively.

53. "The following rules have been enacted for regulating the internal consumption of opium, and for preventing the illicit sale of that drug."

Section 53. Object of the succeeding sections declared.

54. "The retail sale of opium in the interior shall be considered a branch of the abkarry revenue, and shall be conducted under the superintendence and directions of the collectors of land revenue,

Section 54. The retail sale of opium forms a branch of the abkarry revenue.

venue, or other officers entrusted with the charge of the abkarry mehal, subject to the control of the Board of Revenue, the Board of Commissioners in the ceded and conquered provinces, and the commissioner in the provinces of Benares and Behar respectively."

Section 55. The collectors are to indent upon their immediate superiors for a supply of opium.

55. "The collectors, or other officers entrusted with the charge of the abkarry mehal, shall, once every year or oftener, state to the Board of Revenue, the Board of Commissioners, and the commissioner of Behar and Benares, the quantity of opium which may be required for their respective districts; and shall be supplied with the same in the mode which the Governor General in Council shall direct."

Section 56. Shops to be established.

56. "Shops shall be established on the part of Government, for the retail sale of the drug, at such places as may be deemed most convenient for supplying the wants of the community."

Section 57. The shops are to be conducted by persons to be appointed by the officer in charge of the abkarry mehal.

57. "The sale of opium, at the shops which may be established by Government, shall be conducted by persons nominated for that purpose by the collectors, or other officers in charge of the abkarry mehal respectively, with such other establishment as may be deemed necessary, either at a fixed monthly salary, or to be paid by a commission on the amount sale of the opium, or partly by both, as may be considered to be most expedient."

Section 58. Sunnud to be given to the person so nominated; and security to be required from him.

58. "The person so nominated shall receive a sunnud drawn up in the form No. 1, annexed to this regulation, and shall enter into a corresponding engagement. The person so nominated shall moreover give such security as the collector, or other officer in charge of the abkarry mehal, shall require."

Section 59. Penalty for breach of the conditions of his engagement.

59. "Any breach of the conditions of his engagement shall render the offender liable to dismission from his office, and to a fine, not exceeding five hundred Rupees; or in the event of the fine not being duly discharged, to such imprisonment, not exceeding six months, as the collector may deem adequate to the degree of offence committed."

Section 60. Officers of the abkarry mehal may authorize the retail sale of opium, if sanctioned by their immediate superiors.

60. "In cases in which it may be deemed advisable, the collectors or other officers in charge of the abkarry mehal may, with the sanction of the Board of Revenue, the Board of Commissioners, or the commissioner in Behar and Benares, authorize individuals to vend opium by retail under regular licences."

Section 61. Rule to be observed in the

61. "In

"In cases in which an arrangement of this nature may be judged advisable by either of the abovementioned authorities, due notice shall be publicly given of such intention, and of the periods at which licenses will be granted to individuals for the retail sale of that article, and the conditions on which such licenses will be granted." 62. "In such cases any person desirous of obtaining such a license, shall present a derkhaust, or written application to that purport to the collector, or other officer in charge of the abkarry mehal, specifying the place at which he is desirous of establishing his shop; and on his application being acceded to, shall furnish such security for the due performance of his engagement, as the collector or officer aforesaid shall deem sufficient." 63. "On the person so applying having furnished the security referred to in the preceding section, a license for one year shall be granted to him, agreeably to the form No. 2, affixed to this regulation, and a correspondent kubooleat be taken from him." 64. "The opium shall be furnished to the licensed venders in monthly portions; and it shall be the duty of the Board of Revenue, the Board of Commissioners, and the commissioner in Behar and Benares respectively, to determine the terms on which the opium is to be supplied, and the amount of the daily tax which they shall be required to pay, in addition to the price of the opium which they may clear out. The Boards aforesaid shall cause the highest price or rates of duty to be fixed that can be done, without risk of giving rise to the illicit manufacture and sale of opium." 65. "On any breach of the conditions of his engagement, not being an offence specifially provided for, the license granted to the opium vender shall be considered forfeited, and the offender shall be liable to a fine, not exceeding fifty rupees, and in the event of the fine not being duly discharged, to such imprisonment, not exceeding one month, as the collector, or other officer in charge of the abkarry mehal, may deem adequate to the offence committed. The offender shall likewise forfeit his security, to such extent as the collector may judge necessary, to idemnify Government for the loss occasioned by his default, over and above the

event of such an arrangement being deemed advisable.

Sec. 62. Mode to be adopted by persons desirous of obtaining a license. Engagement to be required from a licensed retail vender.

Sec. 63. License to be granted on security being furnished, and a correspondent kubooleat to be taken.

Sec. 64. In what portions, by whom and at what rate of daily tax, opium is to be furnished to the licensed retail venders.

Sec. 65. Such licenses when to be considered forfeited.

amount payable by him in the ordinary course, under the engagement contracted with the collector, or other officer entrusted with the abkarry mehal, up to the date of the resignation of his sunnud." 66. "Persons licensed to vend opium shall be at liberty to surrender their licenses; and shall be relieved from their engagements on making application for that purpose to the collector, and paying a sum equal to the daily tax for one month, over and above the amount payable by them in the ordinary course, under their engagements contracted with the collector, or other officer in charge of the abkarry mahal, up to the date of the resignation of their licenses." 67. "Any license, which may be issued under the rules of this regulation, shall only be considered to authorize the establishment of one shop. If any vender shall be desirous of establishing more than one shop, he shall take out a separate license for each: but all licensed venders of opium shalll be held answerable for the due performance of the conditions of their licenses, by the persons to whom they may entrust the management of any shop, in the same manner as they are themselves responsible for their own acts; and any licensed vender of opium, selling the drug elsewhere than in the shop specified in his license, shall be held liable to the penalties prescribed for the illicit vend." 68. "The Board of Revenue, the Board of Commissioners, and the commissioner in Behar and Benares, may likewise, in cases where it may appear advisable, authorize the collectors, or other officers in charge of the abkarry mehal, to grant, on application from any person, whether licensed vender or otherwise, desirous of vending opium at any temporary haut, a special license for that purpose, specifying the name of such haut, and the number of days for which the license shall have effect. This license shall be drawn out (mutatis mutandis) in a form similar to No. 2, annexed to this regulation." 69. "The collectors, or other officers entrusted with the abkarry mehal, shall be allowed a commission of five per cent on the net amount realized by them on the sale of opium, under the provisions of this regulation." 70. "If in any case adulterated opium

Conditions under which a licensed retailer of opium may surrender his license.

A separate license required for each shop.

The licensed vender declared responsible for the acts of the persons employed by him in the management of any shop.

Special licences.

Form of licence.

Sec. 69. Commission allowed to officers in charge of the abkarry mehal.

Sec. 70. Penalty for any

opium be attempted to be delivered out, or offered for sale, directly or indirectly, by any of the venders (or persons employed by them) nominated by the collector, or other officer in charge of the abkarry mehal, to conduct the sales at the shops established on account of Government, or by any licensed vender of opium, the license granted to him shall be forfeited, and he shall be subject, on conviction before the collector, to a fine, not exceeding five hundred rupees, and to such imprisonment, not exceeding six months, as the collector of the zillah may judge proper; the opium shall be confiscated and destroyed; and all boats, carriages, cattle and packages, of whatever description, on which or in which it shall be found, shall be seized and confiscated. The person giving information of the fact shall, on the conviction of the offender, be entitled to a moiety of whatever fine the collector, or other officer in charge of the abkarry mehal, may deem it proper to impose on the offender." 71. "If the person so charged shall deny that the opium is adulterated, the collector of the zillah shall refer the opium for examination to the surgeon of the station, or where there may be no surgeon, shall summon and examine two or more of the most respectable native doctors, or other competent judges, on the point; and for this purpose, the collector, or other officer in charge of the abkarry mehal, shall always retain a certain quantity of all despatches of opium, which he may deliver to the venders, as a sample with which to compare the opium sold by them." 72. "The rules prescribed in Regulation 10, 1813,* respecting the sale of spirituous liquors in the vicinity of military cantonments, shall likewise be applicable to the sale of opium under the provisions of this regulation." 73. "The rules contained in Regulation 10, 1813, and Regulation 17, 1814,† respecting the recovery of arrears due from persons selling spirituous liquors and intoxicating drugs, shall, as

Attempt to sell adulterated opium.

Reward to informer on the conviction of the offender.

Sec. 71. Mode of establishing the adulteration of opium.

Sec. 72. The provisions of Regulation 10, 1813, extended as far as regards the sale of opium in the vicinity of military cantonments.

Sec. 73. Rules for recovery of arrears, in Regulation 10, 1813, and Regulation 17, 1814, applicable to persons licensed to vend opium.

* See page 192, of this Volume. The rules there quoted from Section 25, Regulation 10, 1813, appear to be those referred to; though Regulation 10, 1812, is inadvertently cited in Section 72, Regulation 13, 1816.

† The two regulations cited are stated at length in the present Volume, under the head of *Tax on Liquors*.

heretofore

heretofore, be applicable to persons licensed to vend opium."

Sec. 74. Opium to be sold only at the established shops and by licensed venders.

74. "No opium shall be sold, except at the shops established on the part of Government, or by persons duly authorized under license by the collectors, or other officers in charge of the abkarry mehal."

Sec. 75. Penalty prescribed for the illicit sale of opium.

75. "Any unauthorized person, who shall sell any quantity of opium whatever, whether large or small, shall, on conviction before the collector of land revenue, be subject to such fine, not exceeding five hundred rupees, or, in lieu of it, to such imprisonment, not exceeding six months, as the collector may judge proper; provided, however, that this rule shall not be construed to extend to native doctors *bonâ-fide* administering opium as medicine in cases of actual sickness."

Not to extend to native doctors administering opium as medicine.

Sec. 76. Opium when to be deemed contraband. How to be disposed of, and the offender how to be dealt with.

76. "No person, not appointed or licensed to vend opium by the collector, or other officer in charge of the abkarry mehal, or not othewise duly authorized by Government, shall have in his possession a greater quantity of opium than two tolahs weight, of the weight in use at the public shops in the district. If a greater quantity of opium shall be found on, or in the possession of, any person not duly authorized, the opium shall be deemed and considered contraband, and shall be liable to confiscation, together with the animals, carriages and articles of whatever description, on which or in which it may be found; and if the offender shall be unable to shew any sufficient or reasonable cause for having a larger quantity than two tolahs in his possession, he shall be further subject, on conviction before the collector of land revenue, to the penalties prescribed in Section 46, for the purchase and possession of contraband opium. The person or persons, through whose means the offence may be detected, shall, on the conviction of the offender, be entitled to the rewards specified in Sections 40, and 41, of this regulation."

Rewards to persons through whose means the offence may be detected.

Sec. 77. Above rules to be considered not applicable, in certain cases.

77. "Provided, however, that nothing contained in the above section shall be construed to apply to authorized opium cultivators, having newly extracted opium in their possession, during the usual period between the full growth of the poppy and the delivery of the opium to the agent."

Sec. 78. Lists of licensed venders of opium to be fur-

78. "The collectors, or other officers in charge of the abkarry mehal, shall furnish the abkarry

abkarry darogahs, and the darogahs of police, with a list of the persons lincensed to vend opium; and it shall be the duty of persons holding the office of abkarry or police darogah to apprehend and send in to the authority, under whom they may be placed, all persons engaged in the illicit sale of opium; provided, however, it shall be their duty at the same time to send the necessary witnesses to prove the fact. In all cases, in which such persons, guilty of the illicit sale of opium, or in which ryots guilty of the illegal culture of the poppy, shall be sent into the magistrate, it shall be his duty immediately on their arrival to send the persons so charged, together with the witnesses who may have been sent along with them, to the collector of land revenue, or other officer in charge of the abkarry mehal, who will pass judgment on the case under the rules hereinafter prescribed." 79. "It shall be the duty of the Board of Revenue, the Board of Commissioners, and the commissioner in Behar and Benares, and the Board of Trade, to furnish the several officers under their control with such detailed instructions, in respect to the prevention of the illicit culture of the poppy, and the illegal manufacture, sale, purchase, importation, transportation, and possession of opium, as they may deem necessary, with a view of better securing that object, consistently with the provisions of this regulation." 80. "All suits, complaints, and information, for the recovery of any fine or penalty recoverable by Government, or by the informer, on account of the illicit cultivation of the poppy, the illicit manufacture, sale, purchase, importation, transportation, or possession of opium, (excepting complaints or charges preferred against public officers, for a breach of their official duty, under the rules of this regulation, the cognizance of which is reserved to the magistrates,) are hereby declared cognizable, exclusively by the collector of land revenue, or other officer in charge of the abkarry mehal: any thing in the existing regulations to the contrary notwithstanding; and the investigation thereof, shall be conducted under the following rules." 81. "No suit, complaint, or information, of the nature abovementioned, shall be admitted or proceeded up-

nished to the abkarry and police darogahs. Duties of those officers, and of the magistrate, and of officers in charge of the abkarry mehal, defined.

Sec. 79. Duties of the different Boards of Revenue, Commissioners, and Trade, specified.

Sec. 80. What suits under this regulation are cognizable by the officer in charge of the abkarry mehal.

Sec. 81. Circumstances under which

complaints shall not be admitted.

on by the collector, or other officer vested with the cognizance of the same, unless it shall be preferred within the period of six months after the act, for which the fine or other penalty may be demandable, shall have been committed; excepting in cases in which the same shall be prosecuted on the part of Government, and good and sufficient cause be shewn why the suit was not preferred within the period of six months, from the commission of the act, whereupon the fine or other penalty is demandable."

Exception.

Sec. 82. Stampt paper not to be required in such complaints, nor for the execution of engagements.

82. "Petitions and other papers presented in suits, informations, and complaints, preferred under this regulation, before a collector of land revenue, or other officer in charge of the abkarry mehal, shall not be required to be written on stampt paper; and all engagements contracted between Government or its officers, and individuals, under this regulation, shall be received and admitted in evidence in the different courts of judicature, and by the collectors of land revenue, and other officers in charge of the abkarry mehal, although not written on stampt paper."

Such documents to be admitted in evidence in courts of judicature, &c. although not written on stampt paper.

Sec. 83. Further duties of the officer in charge of the abkarry mehal, and magistrates.

83. "Whenever a collector, or other officer in charge of the abkarry mehal, shall have strong grounds to believe, either from charges preferred or evidence given on oath, or from his own personal knowledge, that the poppy is actually growing in the field of any ryot, contrary to the prohibition of this regulation, he shall cause the crop to be immediately attached, if not already attached by a competent officer, and the poppy to be destroyed. In the same manner, if he shall have good grounds to believe, that any person actually has upon him or in his possession a quantity of contraband opium, he shall immediately issue his warrant for the seizure of the same; and in both these cases it shall be competent to the collector to issue a warrant for the immediate apprehension of the persons so charged or suspected of the illicit culture of the poppy, or the illegal possession of opium, summoning at the same time any witnesses that may appear necessary. The collector, or other officer in charge of the abkarry mehal, together with the magistrate of the district, is likewise hereby authorized to seize, detain, and search all boats, carriages, bales, chests, and packages, of every description, in which

which he may have sufficient grounds to suspect, that opium is concealed." 84. "In all other cases, in which any person may be accused before the collector, or other officer in charge of the abkarry mehal, of acts rendering him liable to any of the penalties prescribed in this regulation, the collector, or such other officer, shall issue a summons, with or without requisition of security, to be served by a single chuprassy, requiring the attendance of the person charged, either in person or by vakeel, as the case may appear to the collector to require, to answer to the charge, on or before a certain day, to be specified in the summons; and if it be necessary to require bail, the extent of the bail shall be stated in the summons. The collector, or other officer aforesaid, shall, at the same time, summon such witnesses as may be named by the informer, and as he may judge it necessary to examine in proof of the accusation, to attend at the time appointed for the attendance of the accused."

Sec. 84. Additional duty of the officer in charge of the abkarry mehal.

85. "In all cases in which the party accused or suspected may be apprehended, whether under the warrant of the collector, or other officer in charge of the abkarry mehal, or by the police and abkarry darogahs, in the cases provided for in Sections 31, 79, and 84, of this regulation, or shall attend in person, the investigation by the collector, or other officer aforesaid, shall be commenced immediately on the arrival of the party, at his cutcherry, and shall be prosecuted with the least possible delay, consistently with a due enquiry into the facts: and generally all cases of this nature, tried before the collector, or other officer in charge of the abkarry mehal, under this regulation, shall, as far as practicable, be proceeded upon, on the day specified in the summons for the attendance of the party or his vakeel, unless it shall be necessary to postpone the investigation, in order to procure the necessary evidence."

Sec. 85. Investigation be commenced with the least possible delay.

86. "The collectors, or other officers in charge of the abkarry mehal, are hereby authorized to summon witnesses and administer oaths, or cause the execution of solemn declarations in lieu thereof, in respect to all matters brought before them under this regulation, conformably with the provisions of Section 6, Regulation 4, 1793, and Section 2, Regulation 50, 1803,*

Sec 86. The officer in charge of the abkarry mehal authorized to administer an oath to the witness in all matters under this regulation.

* Vol. I. page 69.

corresponding

corresponding with Section 7, Regulation 3, 1803, and Clause 6, Section 25, Regulation 8, 1833, for the conquered and ceded provinces; provided that, if any witness shall refuse to take the oath required from him, he shall be sent to the judge of the zillah or city court, to be confined as prescribed by the regulations in similar cases."

The refusal of a witness to take the oath provided against.

87. "The collector, or other officer in charge of the abkarry mehal, shall, in the summoning and the examination of witnesses, and in the general conduct of the investigation, be guided except when otherwise prescribed,) by the rules prescribed for the guidance of the magistrates in the trial of persons charged with offences punishable by them; provided, however, that in suits brought by any of the officers of Government, the personal attendance or deposition of the prosecutor shall not be required; but the prosecution shall be conducted by any agent, or vakeel, the prosecutor may choose to appoint for that purpose."

Sec. 87. Officers in charge of the abkarry mehal to be guided by the regulations, enacted for the guidance of the magistrates. Exception.

88. "Any person giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, relative to any proceeding depending before a collector, or other officer entrusted with the abkarry mehal, under this regulation, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall be liable to the penalties prescribed for that offence in the regulations; and any person causing or procuring another person to commit the offence of perjury, as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said regulations."

Sec. 88. Penalty for perjury or subordination of perjury, in causes before the officer of the abkarry mehal, stated.

89. "Persons resisting any process issued by the collector, or other officer entrusted with the abkarry mehal, in any case depending before him under this regulation, shall be liable to the penalties prescribed for cases of resistance to the process of a collector in Regulation 14, 1793, Regulation 6, 1795, and Regulation 27, 1803, under the provisions therein specified."

Sec 89. Resistance of process how punishable.

90. "Whenever the collector, or other officer in charge of the abkarry mehal, shall require the assistance of police darogahs, or other police officers, in the apprehension of persons charged before them in attaching crops, or seizing contraband opium, or generally in serving any

Sec. 90. Mode to be adopted by an officer of the abkarry mehal, requiring the assistance of the magistrate.

any process, he shall apply, by a Persian roobakaree, to the magistrate, who is hereby authorized and enjoined to cause his police officer to carry the requisition of the collector, or officer aforesaid, into effect, as far as may be practicable, and consistent with law." 91. "Whenever any person may be adjudged to pay a fine, or to be imprisoned for the illicit culture of the poppy, or the illegal vend, purchase, transportation, or possession of opium under these rules, he shall be immediately sent with a roobakaree to the judge of the city or zillah, stating the purport of the order passed against the person in question; and the judge shall, on those grounds, give the necessary directions for the execution of the order accordingly, and shall transmit the fine, when levied, to the treasury of the collector." 92. "All persons sentenced to imprisonment under the provisions of this regulation, and all persons confined for non-payment of the fines, to which they may be liable, shall be confined exclusively in the Dewanny jail." 93. "In cases in which it may be necessary to imprison the offender, and in which a fine cannot or may not be levied from him, a reward of ten Rupees shall be paid on the part of Government to the informant or informants, in lieu of his or their share of the fine, to which the offender may have become liable, under the provisions of this regulation." 94. "Persons, who, after the investigation prescribed by these rules, shall not have been convicted of the offence with which they stood charged or suspected, shall be immediately released; and the expence, to which they have been actually subject on account of the enquiry, shall be paid to them by the collector, or other officer in charge of the abkarry mehal, on the part of Government. Should it further appear, on investigation, that the enquiry originated in malice, or in motives clearly vexatious and unwarranted on the side of the informant, it shall be competent for the collector, or other officer aforesaid, to order such informant to discharge the amount of any diet money which may have been paid to the witnesses, and to pay to the party aggrieved such moderate fine, not exceeding however, in any case, twenty Rupees, as may appear reasonable; or to be confined for a period not exceeding

Assistance to be afforded by the magistrate, consistent with law.

Sec. 91. Persons convicted, to be sent to the zillah or city judge.

Duty of the judge.

Sec. 92. Persons sentenced under this regulation to imprisonment, to be confined in the Dewanny jail.

Sec. 93. Reward paid on the part of Government, in the event of no fine being levied from a convicted offender.

Sec. 94. Rules to be observed in regard to persons who may not have been convicted of the charges imputed to them.

ing fifteen days. Orders passed under this rule shall be enforced in the same manner as other fines imposed under the provisions of this regulation." 95. "It shall be the duty of the Board of Revenue, the Board of Commissioners, and the commissioner in Behar and Benares, to require from the officers, under their control, such periodical reports or returns, regarding their discharge of the duty entrusted to them under the provisions of this regulation, as may appear to those Boards best calculated to enable them to judge whether the enquiries, held by those officers on the trial of the cases cognizable by them, are duly and speedily conducted, and whether the parties impleaded suffer any inconvenience, which can be avoided." 96. "Persons dissatisfied with the judgments passed or acts done by the collectors, or other officers in charge of the abkarry mehal, under this regulation, shall be at liberty to prefer an appeal, either in person or through an authorized agent, or through the medium of the collectors, or other officers, by whom the judgment may have been passed, by petition to the Board of Revenue, the Board of Commissioners, or the commissioner in Behar and Benares, respectively; and those Boards, after calling for such information as they may require from the collectors, or other officers aforesaid, shall confirm or modify the judgment given, or pass such other orders on the subject, as may appear to them conformable to the principles of substantial justice. Provided, however, that no such appeal shall be received, unless it shall be preferred within the period of one month, after judgment shall have been passed by the collector. It shall be the duty of the collector, on any petition of appeal being presented to him for transmission to the Board, to cause the date, on which it may be so presented, to be endorsed on it, and to transmit the petition without delay; and whenever any party shall appeal directly to the Board, such appellant shall, within the period above prescribed, give notice of his having done so to the collector, or other officer, against whose decision he may have appealed." 97. "In all cases in which the opium agents or their deputies, the collectors or deputy collectors of customs, or superintendents

Sec. 95. Duties of the authorities appointed to control the officers in charge of the abkarry mehal.

Sec. 96. How persons may proceed to complain, who deem themselves aggrieved by the investigation or judgment of the collector.

Sec. 97. Duty of the officer in charge of the abkarry.

superintendents of salt chokies, shall be entitled to any of the rewards prescribed in this regulation the collector of land revenue, or other officer in charge of the abkarry mehal, shall report the case to the Board, to which he may be subject, and await their orders, for the distribution and payment of the same: in other cases in which any informer, or subordinate officer of Government, shall become entitled to such reward, the collector shall adjudge and record the distribution of the same at the time of deciding the case; and if an appeal be not preferred under the provisions of the above section, he shall proceed to the payment immediately on the expiration of the period allowed for such appeal. If the case be appealed, the distribution and payment of the rewards shall rest with the authority by which the final decision may be passed." 98. "If any disputes should arise between an opium agent or any officer of Government, and any person, on any matter relative to the cultivation, provision, transportation, sale, purchase or possession of opium, not provided for in this regulation, either party is to be at liberty to apply for redress to the courts of civil judicature; and the case shall be tried and decided upon under the general laws, regulations and usages, ordinarily observed in the civil courts."

mehal, with respect to the payment of rewards.

By whom the rewards shall be paid, in the event of an appeal from the collector's decision.

Sec. 98. Cases cognizable by the courts of judicature defined.

No. 1.

Form of Sunnud to be granted to persons appointed to conduct the retail sale of opium on the part of Government.

Form of Sunnud referred to in Section 58, of preceding regulation.

"Whereas by the authority of the Governor General in Council, I, A. B. have appointed C. D. to conduct the sale of opium at the shop or shops established on the part of Government at ——— pergunnah, ——— zillah ———, at the haut or hauts held at ———, dependent on the above shop or shops; it is required of him, as a condition of this appointment continuing in force, that he duly and faithfully perform and abide by the following conditions.

"That he will not adulterate the drug. That he will not be concerned directly in the sale or traffic of opium on his account, or on the account of any other person, except that of Government.

That

That he will not knowingly sell to the same person, in the same day, a larger quantity of opium than two tolas weight. That he will confine the sale of the drug to the abovementioned places, annexed as dependencies of the shop aforesaid. That he will not allow purchasers to remain at the shop for a longer time than may be necessary to supply them with the quantity of opium, which they may respectively require. That he will not open the shop before sun-rise, nor keep it open after sun-set. That he will regularly and punctually render a true and just account of the sales made by him, after the form prescribed, and at the periods directed by me.

"Given under my hand and seal, this ——— day of ——— 18——.

No. 2.

Form of License referred to in Section 6g.

Form of License to be granted to persons authorized to vend Opium.

"License No. —— for the sale of opium at ———, during the year ——— B. S. or F. S.

"Whereas by the authority of the Governor General in Council, I, A. B. authorize C. D. to open a shop for the sale of opium in the city, (town or village) of ———, in ———, for the year ——— B. S. or F. S. it is required of him as a condition of this license remaining in force, that he duly and faithfully perform and abide by the following articles; on the breach of any of which this license shall be forfeited.

1st. "That he pay to Government a daily tax of ——— Sicca Rupees.

2d. "That he will not adulterate the opium.

3d. "That he will sell no opium, not purchased or procured by my authority.

4th. "That he confine his sale of opium to the shop, for which his license is granted, and on no account sell any opium without the limits of the above city, (town or village,) or establish a second

shop

shop within such limits, without taking out another license for the same.

5th. "That he prevent gaming and disorder within his shop.

6th. "That he do not harbour thieves or riotous persons, but on the contrary give information to the nearest magistrate, or police officer, of any suspected persons who may resort to his shop.

7th. "That he do not receive any goods or wearing apparel, or other property in barter for opium.

8th. "That he do not open his shop before sun-rise, nor keep it open after sun-set; and that he do not harbour any persons in it during the night.

9th. "That he will have constantly fixed up, on the outer door of his shop, a sign or board, bearing an inscription to the following effect, in the current language of the country:

'*Licensed Vender of Opium.*'

10th. "That he will restore this license to be cancelled on or before the ——— day of ——— B. S. or F. S.

11th. "All officers of Government are hereby prohibited from imposing or exacting any tax or cess, under any pretence whatever, on the said C. D. on account of the said shop, during the aforesaid period, beyond the tax required to be levied by the regulations; and they are also prohibited from molesting or interrupting him in the prosecution of his profession, while he continues to conform to the above special conditions, and to the Government regulations that relate to him.

"Given under my hand and seal this ——— day of ——— 18——.

Registered. No. of

"A. B.

"*Collector.*"

Whether the opium monopoly is an article of reve-

THE declaration of Government in the preamble to the above regulation* may be considered to have determined a question,

* The preamble to Regulation 41, 1803, for prohibiting the cultivation of the poppy in the upper provinces, also recognized "the system established for obtaining a *revenue* from the opium produced in the provinces of Behar and Benares."

 which

nue or commerce.

which was agitated between the members of the Government of Fort William in 1775; whether the opium monopoly should be deemed an article of *revenue* or of *commerce*.* It was indeed then resolved by a majority of the council (Mr. FRANCIS, General CLAVERING, and Colonel MONSON,) "that it is an article of revenue;" and the Court of Directors seem to have confirmed this decision by their general letter of the 15th December 1775, in the 41st paragraph of which they approved a continuance of the management of the opium business under the Revenue Council at Patna; but directed, that the opium, when provided, should be consigned, at prime cost, to the Board of Trade, who were to dispose of it at public auction; and apply the produce towards the provision of the Company's investment.† On a more important question, which was discussed at the same period, whether the manufacture and sale of opium should remain the exclusive privilege of the Company, or the trade in it be thrown open, subject to a duty; the Court of Directors, (in the 77th paragraph of their general letter, dated 24th December 1776,) liberally directed that,

Whether the manufacture and sale of opium should remain an exclusive privilege; or the trade in it be thrown open, subject to a duty.

* See extract from Bengal Revenue Consultations, 18th January 1775, No. 61. Appendix to ninth report of the Select Committee, 1783.

† See paragraph referred to in Appendix No. 60, to the report mentioned in the preceding note. In consequence of the legislative enactment, in Section 64, of the Statute 53, Geo. III, Cap. 155, which directs, that the East India Company's books of accounts "be so kept and arranged, as that the same shall contain and exhibit the receipts, disbursements, debts and assets, appertaining to, or connected with, the territorial, political, and commercial branches of their affairs respectively; and that the same shall be made up in such manner that the said books shall contain and exhibit the accounts of the Territorial and Political Departments, separately and distinctly from such as appertain to, or are connected with, the commercial branch of their affairs;" it became a question, in 1814, whether the Opium and Salt Departments, which were placed under the Board of Trade in 1793, should not be transferred to the Board of Revenue, "for the purpose of keeping the territorial accounts distinct from the commercial transactions of the Company;" as suggested by the Honorable Court of Directors. It appearing, however, by a report from the Board of Trade, (dated the 15th April 1814,) that the accounts of the Salt and Opium Departments had, for many years past, been kept perfectly distinct from those of the Commercial Department; and further, that the net revenue, derived from each of these articles, had been considerably augmented, under the superintendence of the Board of Trade; the Governor General in Council, on the 15th April 1814, judged it expedient to continue the Salt and Opium Departments as heretofore, under the control of that Board.

if

if the Governor General and Council should "be of opinion, that abolishing the monopoly of opium will contribute in any great degree to the relief of the natives," they were authorized "to give up that commodity as an article of commerce; only fixing and reserving a reasonable duty thereon to the Company," which (it was thought) should not exceed 30 Rupees per maund.* A majority of the members of council, against the opinion of Mr. FRANCIS, who contended for the abolition of this and all other monopolies, as "anti-commercial in the first instance, and ultimately destructive of revenue;"† judged a continuance of the monopoly of opium, in behalf of the Company, to be expedient, under the actual circumstances of the country; and it has been since maintained accordingly. If it be just and adviseable, in any case, to monopolize, for the benefit of Government, the growth, manufacture, or sale, of an article of internal produce; a pernicious drug, which is neither a necessary of life, or a desirable superfluity, and which, if not adulterated, (as it might be in the hands of individuals,) is a valuable commodity for external commerce, must be considered an unexceptionable subject of exclusive privilege. An experienced servant of the Company, who, some years since, published his *remarks on the husbandry and internal commerce of Bengal*, has expressed his sentiments on the point adverted to, in the following terms:—"Opium, it is well known, has been monopolized by Government. It is provided in the provinces of Behar and Benares, and sold in Calcutta by public sale. For many reasons this monopoly seems less exceptionable than any other. It is doubtless a national object of policy to discourage the internal consumption of a drug, which is so highly pernicious, when employed for intoxication. It must not, however, be concealed, that, by the effect of the monopoly, Behar has lost the market of the western countries, which formerly

* Vide appendix 33, to report of the Select Committee before referred to.

† See ninth report of the Select Committee, 1793, under head of "Opium;" and Appendix No. 62. Also Mr. FRANCIS's *Plan of Settlement*, printed in appendix 14, to the Committee's sixth report; as well as separately, by himself, with other *Original Minutes of* 1776.

were

were thence supplied; but which now raise as much as is consumed within their limits; and even furnish some opium to the British provinces. Nevertheless, if the first grower receive, from the monopolist, as equitable a payment as the competition of free trade could afford him, the monopoly cannot be deemed a public injury; it only takes, for the benefit of the state, what otherwise would afford gain to a few intermediate traders. The preparation of the raw opium is under the immediate superintendence of the agent, or of the contractor. It consists in evaporating, by exposure to the sun, the watery particles; which are replaced by oil of poppy seed, to prevent the drying of the resin. The opium is then formed into cakes, and covered with the petals of the poppy; and, when sufficiently dried, it is packed in chests, with fragments of the capsules, from which poppy seeds have been thrashed out. This preparation, though simple, requires expert workmen, able to detect the many adulterations which are practised on the raw juice. The adulteration of prepared opium is yet more difficult to discover. It has been supposed to be commonly vitiated with an extract from the leaves and stalk of the poppy, and with the gum of the mimosa. Other foreign admixtures have been conjectured, such as cow-dung, gums and resins of various sorts, and parched rice. The facility of adulterating opium, and the consequent necessity of precautions against such frauds, are circumstances which would justify the monopoly, were it even objectionable on other considerations. In a free commerce, the quality might probably be more debased, to the injury of the export trade."*

Provisions of Regulation 16, 1817, enacted on the 9th September, of that year.

THE following regulation, *for imposing a duty on foreign opium, imported by sea, into any port or place within the limits of the territories immediately dependent on the presidency of Fort William*, belongs properly to the department of *customs*; but having been enacted since that head of my Analysis was printed, and

* Chap. 5, pages 110 and 114, of Mr. H. COLEBROOKE's remarks, &c. printed at Calcutta in 1804.

being

being immediately connected with the present section, I have thought it necessary to subjoin the rules contained in this regulation, which are declared in the preamble to have been "deemed expedient, with a view to the improvement and security of the public revenue;" to have received the sanction of the Court of Directors, and approbation of the Board of Commissioners for the affairs of India; and to be in force throughout the territories immediately dependent on the presidency of Fort William, from the period of their promulgation.

Preamble.

§. 2. "Foreign opium, that is to say opium made out of the limits of the territories immediatly dependent on the presidency of Fort William, shall, on importation by sea into any port or place within the limits of the said territories, be subject to a duty, at the rate of Sicca Rupees twenty-four per seer, of eighty Calcutta Sicca Weigt." § 3. "The aforesaid duty shall be paid and levied under the same rules and provisions, as are applicable generally to the payment and collection of the duties, denominated Government Customs, on goods or merchandize imported by sea, subject, however, to the provision contained in the following section; and any opium, imported or landed in breach of the said rules and provisions, shall be forfeited, two-third parts to the said United Company, and one-third part to the person or persons who shall seize, inform, or sue for the same; and shall and may be seized as forfeited by the collector, or any of the officers of the custom house or customs, or by any of the officers of Government serving in the opium or salt department, to be by them conveyed and deposited in one of the said United Company's warehouses, or other secure place." §. 4. "The proprietor or proprietors of opium, imported as aforesaid, may, if he or they be so disposed, instead of landing the opium so imported at the custom house, and paying the duty due and payable thereon, in the manner prescribed generally for the payment of the duties denominated Government Customs, on goods or merchandize imported by sea, deliver it on shore at the Company's warehouses, or such other warehouse, as

Sec. 2. Foreign opium when imported by sea into any port or place within the limits of the territories dependent on the presidency of Fort William, subject to a duty of twenty-four Sa. Rs. per seer.

Sec. 3. Mode of levying the duty abovementioned.

Opium liable to forfeiture on breach of the rules contained in this regulation.

Sec. 4. Option granted to proprietors to lodge their opium in the Company's warehouse, instead of landing it at the custom house, and without payment of the prescribed duty in the first instance.

shall be approved by the Governor General in Council; and secure and lodge it therein without payment of duty in the first instance; provided, however, that opium so warehoused, shall not be removed until the duty, imposed by this regulation, shall be duly paid." §. 5. "The importers, proprietors or consignees of opium, which shall have been lodged or secured as aforesaid, shall, within twelve calendar months, to be computed from the date of the production of the manifest at the custom house, clear and take from and out of such warehouses or places, all such opium, and shall pay the full duty imposed by this regulation; and in case any such importers, proprietors or consignees, shall fail or neglect so to do, it shall be lawful for the Governor General in Council, or such officer as may be duly empowered by him in this behalf, to cause all such opium to be publicly sold or exposed to sale; and after such sale, the produce thereof shall first be applied to the payment of the duty imposed by this regulation; and the overplus, if any, shall be paid to the proprietor or other persons authorized to receive the same; provided, that no such opium shall be sold, unless a price can be obtained for the same, equal at least to the full amount of the duty aforesaid; but if such price cannot be obtained, then all such opium shall be effectually destroyed by, and in the presence of, such officer as the Governor General shall appoint."

But such opium not to be removed, until the duty shall be duly paid.

Sec. 5. Opium lodged or secured as abovementioned, to be cleared and taken away within twelve months, on payment of the full duty imposed by this regulation.

On failure, the opium liable to be sold.

And the produce how to be disposed of.

Proviso.

Opium liable to be destroyed.

SECTION IV.

SALT MONOPOLY.

It has been asserted, by high authority,* "that the salt trade in Bengal had (before the Company's administration) been a monopoly time immemorial; that it ever was and must be a monopoly; and that Coja Wazid, and other merchants long before him, had given to the Nabob and his ministers two hundred thousand pounds per annum, for the exclusive privilege." The extent of this mo-

From what time a monopoly of salt in Bengal has existed.

Duty on salt paid to the Ma-

* Lord Clive. See ninth report of the Select Committee of the House of Commons, 1783. Page 43.

nopoly,

nopoly, however, is rendered uncertain by further authentic information, that "under the Government of the Nabobs, the duty on salt made in Bengal was two and a half per cent paid by Musselmen, and 5 per cent paid by Gentoos."* The following extract from the report of Messrs. ANDERSON, CROFTS, and BOGLE, dated 25th March 1778, and quoted on the land rents and revenues, in the introduction to the third part of this Analysis, may perhaps reconcile these statements, by shewing that a custom house duty was levied on the transportation of salt, in addition to the profit arising from the exercise, or grant, of an exclusive privilege. "There is one branch of the revenue, viz. Salt, which, as it forms in a manner a distinct subject, we have not included under either of the foregoing heads. It appears that this article in Bengal, as in most other countries, has long been considered as an object of the public revenue; and formed a part of the ancient rent roll of the province. Great part of the lands of those districts, which are situated towards the sea, being overflowed, or impregnated with salt, were unfit for the cultivation of grain, at the same time that they were valuable from the salt which they yielded. But as the quantity of this article, produced in such districts, could not be estimated by the extent of land, but depended on the number of salt-works, or people employed in manufacturing it, different modes of obtaining a revenue from them were adopted. That we may not embarrass our enquiry with a number of technical terms, we shall consider the salt of Bengal, as it has respect to revenue, under the general and known heads of *teeka* and *khazana*. These distinctions, though perhaps under different names, appear to have existed under the ancient Mogul government. In some places the *calaries*, or salt-works, were hired out by the zemindars at a certain rent, payable either in money or salt, which was called *teeka*; and the money or value of the salt, thus obtained, formed a part of the jumma of the *maul* revenues, as we have already mentioned. In other districts, the

homedan government.

Extract from report of the commissrs. mentioned in introduction to Part III.

* Report of Mahomed REZA KHAN, cited in fourth report of the Committee of Secrecy, 1773. Page 13.

whole

whole or a great part of the public revenue, or khazana, was paid in salt. The zemindar, or person in the management, engaged to deliver to Government the whole quantity of salt, which the district was supposed capable of yielding; on receiving in advance, or being credited in the amount of his land revenue, the charges of manufacturing it at a fixed rate; and the difference between the prime cost so fixed, and the value of the salt, was included in the revenue of the district. In some districts the teeka, in some the khazana prevailed: and we are inclined to believe, that in general the one, or the other of these modes was established, according to the greater or lesser proportion, which the salt manufactured in a particular place bore to the grain or other produce. That where a district only yielded salt, the revenue was paid in that article according to the khazana mode; and in the contrary, where salt was only a secondary object to the culture of grain, the revenue of the district was raised chiefly on the land; and only a certain rent, or *teeka*, was paid for each calary, or salt-work. During the last five years (1772 to 1776) the whole of the salt of Bengal, whether teeka or khazana, was manufactured on account of Government. The zemindars or farmers of the revenue, and in some places contractors, engaged to deliver, at a fixed rate, a certain quantity from their respective districts. If they exceeded this quantity, they were to receive a premium; if they fell short of it, they were to forfeit a penalty for the deficiency. The person who contracted, paid the usual hire for the teeka salt-works. The khazana ones continued to be exempted from any rent. In the former the price of the salt was advanced to the contractor from the public treasury. In the latter credit was given for it in the accounts of the zemindar or farmer. The salt thus manufactured on account of Government was sold to merchants; and the difference in the price yielded a considerable revenue. It was in fact extending the ancient khazana mode generally throughout the country. Salt also, both in ancient and latter times, was subject to a duty at the custom house. But the revenue raised from it in this manner belongs properly to the head of Sayer."

WHATFORD

Monopoly of salt, beetle-nut and tobacco, for the benefit of the Company's servants, in 1765.

WHATEVER may have been the nature and extent of the monopoly of salt in Bengal, under the Mahomedan government, it is certain, that at the very commencement of the Dewanny grant, in August 1765, a plan was adopted for engrossing the entire purchase, in the first instance, not only of salt, but of "all salt, beetle-nut, and tobacco, produced in, or imported into, Bengal," for the benefit of the Company's senior servants.* This indeed was disapproved by the Court of Directors, and the monopoly was abolished, in consequence of their orders, from the 1st September 1768.† The policy of the Honorable Court, restricting their servants from being engaged in the inland trade, to the prejudice of the native subjects, was seconded by an Act of the Legislature, passed in 1773; which, besides prohibiting the public officers employed in the collection of the revenues, or administration of justice, from the purchase and sale of any commodities whatever, within the provinces of Bengal, Behar, and Orissa, provided that it should "not be lawful for any of His Majesty's subjects, in the said provinces, to engage, intermeddle, or be any way concerned, directly or indirectly, in the inland trade in salt, beetle-nut, tobacco, or rice, except on account of the United Company."‡ Previously to the operation of this act, however, the salt manufacture and trade, which had been thrown open from 1768 to 1772, under the orders of the Court of Directors, were, in October 1772, again monopolized for the benefit of the Company, on the declared ground, "that no new hardships would be imposed upon the salt manufacturers, by taking the management of that article into the hands of Government; the only difference being, that the profit, which was before reaped by English gentlemen and their banians, would be now acquired by the Company."

Disapproved by the Court of Directors; and abolished in 1768.

Policy of the Honorable Court supported by an Act of the Legislature in 1773.

But salt manufacture and trade previously monopolized for the Company in October 1772.

* See ninth report of the Select Committee, 1783; under head of *Salt*. And also "regulations for carrying on the inland trade in salt, beetle-nut, and tobacco, passed 10th August, 1765."—COLEBROOKE'S Digest, vol. 3, page 375.

† See report of the Select Committee, before referred to; and extracts from the Consultations of the Bengal Government, under dates 16th January and 27th July 1767, and 1st September 1768, in pages 378, and 379, of COLEBROOKE'S Digest, vol. 3.

‡ Statute 13, Geo. III. Cap. 63, §. 27.

Salt monopoly under different modes of conducting it, since continued for the Company.

Salt mehals let in farm, and salt sold to merchants in 1772.

Farms for a money rent, including duties, in 1777.

Agency plan introduced in September 1780.

This system, with amendments, still in force.

Rules to prevent oppression

pany."* From the period when this measure was adopted, till the present time, a monopoly of salt, for the benefit of the Company, has been continued, under different modes of conducting it. In 1772, the salt mehals were let in farm for five years; the farmer engaging to deliver the whole of the salt manufactured, at a stipulated price, to the Company's officers; or to salt merchants, who agreed to purchase it at a fixed price, and afterwards retailed it for consumption. In 1777, the provincial councils were instructed to let the salt mehals in farm "for a ready money rent, including duties; the salt to be left to the disposal of the farmer." † But on the 19th September 1780, a "plan for the provision of salt by agency" was introduced, the first article of which was, "that all the salt of the provinces be manufactured (under the superintendence of local agents and a salt comptroller) for the immediate account of the Honorable Company; and sold, for ready money, at moderate fixed rates, to be ascertained and published in the beginning of every season, by the Governor General in Council."‡ This system (excepting the office of salt comptroller, which was discontinued in 1793) has, in substance, remained in force to the present time. But

* See Ninth report of Select Committee, 1783. The passage quoted, with the variation of a few words, is taken from a letter, written by the President of the Council (Mr. HASTINGS) to the Court of Directors, under date the 22d February 1775. The answer of the Honorable Court, dated 24th December 1776, and printed in Appendix 33, to the above report, was as follows:—"In regard to the salt trade of Bengal, we apprehend that the monopoly, on its present footing, can be no considerable grievance to the country. It has ever been, in a great measure, an exclusive trade; and we think no tax can be levied upon it that shall be less oppressive to the consumer; and as we are not certain that our occasions do not require the whole supply arising from this article, we direct, that, for the present, the plan, adopted by our late President and Council, be continued; unless you shall be able to obtain to the amount of £100,000 sterling per annum for the Company, by an additional duty on salt; and are of opinion, that such amount may be realized by imposing a tax thereon, with less inconvenience to the country, and liable to fewer objections, than is the case in the present mode of receiving a profit on salt by sales at auction." See resolutions of the Bengal Government, relative to the plan adopted on the 7th October 1772.—COLEBROOKE's Digest, vol. 3, page 381.

† See resolutions of Government, 16th July 1777. COLEBROOKE's Digest, vol. 3, page 382.

‡ Vide plan referred to in page 382, of COLEBROOKE's Digest, vol. 3; and subsequent regulations of October 1780, page 384.

on

on the 10th December 1788, "a new set of regulations" was ordered to be "adopted in the manufacture of salt, in order to relieve the labourers from oppressions represented to have been exercised by overseers, gomastahs, and contractors."* A considerable improvement in the salt revenue, during the Government of Marquis CORNWALLIS, was also effected by disposing of the salt at regular public sales, which were ordered to take place at stated periods, viz. in March, May, July, and September: the quantity to be sold, at each sale, being rendered as equal as possible, that purchasers might be apprized of the entire quantity to be annually sold, and adapt their prices to the demand for salt accordingly; as well as be prepared with funds for the public sales, at the known periods, which were published for general information.

of labourers in the salt manufacture, passed in 1788.

And salt revenue much improved, in the government of Marquis CORNWALLIS, by disposal of the salt at regular public sales.

THE rules passed on the 10th December 1788, and subsequent dates, were re-enacted with amendments in Regulation 29, 1793; and the principles of them, as adapted to the general system of internal administration then established, are stated in the preamble to that regulation. "Government having thought it proper to reserve to itself the exclusive privilege of manufacturing salt as a source of public revenue, the nature and extent of the business required that rules should be prescribed for preventing persons employed in the manufacture embezzling the money advanced to them; and for ensuring the due performance of their engagements. It is equally essential that provision should be made for deterring the officers, and others, employed in the superintendence of the manufacture, from compelling persons to engage in it, or oppressing those who may have voluntarily executed agreements, or entered into the employ of the public. As the most effectual mode of guarding against such abuses, and of ensuring justice to the salt-workers, and others employed in the manufacture, in their dealings with the public; the Gover-

Rules of 10th December 1788 and subsequent dates, re-enacted and adapted to judicial system of 1793, in regulation 29, of that year.

Preamble to regulation 29, 1793.

* GOLEBROOKE's Digest, vol. 3, page 386, and subsequent rules passed from 1789 to 1792, pages 390 to 396.

nor

nor General in Council has determined, that the rules to which persons engaging in the salt manufacture may be subject, shall be incorporated with the laws and regulations for the internal government of the country; and that the agents, and officers employed in the immediate superintendence of the manufacture, shall be liable to be sued for any deviation from those rules in the courts of judicature; that every person who may deem himself aggrieved by their official acts, whether originating with themselves, or done in consequence of orders from the superior authorities, may be able to obtain redress, with the same facility, as for an injury received from an individual. The following rules, being the rules passed by the Governor General in Council on the 10th December 1788, and subsequent dates, with alterations and amendments adapted to the principles above stated, have been accordingly enacted." 2. "The persons who may be appointed agents for the provision of salt on account of Government, previous to entering on the execution of the duties of their office, shall take and subscribe the following oath before the Governor General in Council, or any person whom he may commission to administer it.

Sec. 2. Oath to be taken by the agents.

"I, A. B. swear, that I will render true and faithful accounts of the sums which may be advanced to me as agent for superintending the provision of salt, to be manufactured on account of the Company, in the division of , and of the produce, whenever required by the Governor General in Council; and that I will not at any time, either during my agency or afterwards, have any concern in salt, nor derive any profit from my agency, besides my commission, and the salary which has been allowed to me by the Governor General in Council; nor knowingly suffer my dependants to derive any profits, but such as are allowed.

"So help me God."

3. "No person shall be compelled, under any pretence whatever, to engage in the provision, manufacture, or transportation of salt, either

Sec. 3. No person to be compelled

either as a contractor, or a labourer, or in any other capacity; and all persons who may engage in the provision, manufacture, or transportation of salt, and may not choose to re-engage, shall be at liberty to relinquish the employment, after performing the engagements into which they may have entered, and to follow any other occupation they may think proper, without hindrance or molestation." 4. "If a salt agent shall compel, or use any means, or cause any of his officers or others, to compel any molungee, byoparry, or other person, to receive advances, or to contract for, or engage in the provision, manufacture, or transportation of salt, the judge of the Dewanny Adawlut, on proof of the charge to his satisfaction, shall adjudge the contract or engagement null and void, and direct the complainant to be discharged; and cause the advances, if any should have been made, to be returned by him; and award such costs and damages against the agent, as may appear to him equitable. The agent so offending shall moreover be liable to be dismissed from his office by the Governor General in Council." 5. *First.* "If the assistant to a salt agent, whether a covenanted servant of the Company, or a European, not in the Company's service, or any head native officer of an aurung, or place of manufacture, empowered to redress complaints as hereafter directed, shall compel, or use any means, or cause any of his officers or others, to compel any molungee, labourer, or other person, to receive advances, or to contract for, or engage in the provision, manufacture, or transportation of salt, he shall, on conviction before the agent, or before the Dewanny Adawlut, stand dismissed from his office, and shall be made to pay to the complainant a sum equal to the amount of the whole of the advances, which he would have been entitled to receive, had he voluntarily entered into the contract, or engagement, with any further compensation to which he may appear entitled; and the complainant shall be immediately discharged, and any advances that he may have received, shall be taken back from him." *Second.* "Assistants, and head officers of aurungs empowered to redress complaints, shall be held responsible for any com-

Sec. 5. Penalty for assistants or any head officers of an aurung using compulsion.

Assistants and head officers responsible for

compulsion used by those under them.

pulsion that may be used for the purposes specified in the preceding clause, by the gomastahs, peons, or other officers subject to their authority, unless it shall appear that it was had recourse to without their knowledge or connivance, and that they redressed the injury immediately on being apprized of it. Where persons subject to the authority of such assistant, or head officer, shall be convicted of using such compulsion without his knowledge or connivance, the court, or the agent, or the officer before whom they may be convicted, shall pass the same decision as is directed to be given in the preceding clause, in cases in which the head officers of aurungs may be convicted of using compulsion. 6. "If any contractor, byoparry, or molungee, having received advances or entered into engagements for the provision of salt, shall be convicted before the Dewanny Adawlut, or the agent, or any of his officers empowered to redress complaints, of compelling, directly or indirectly, any labourer, or other person, to receive advances, or to engage in the manufacture, the court, or the agent, or the officer so empowered, is to give the same judgment, with the exception of dismission from office, as is directed to be passed in the cases specified in Clause Second, of the preceding section; and that no contractor, byoparry, or molungee, may plead ignorance of the above rule, a clause to the effect thereof shall be inserted in their contracts." 7. "All contracts and engagements entered into with byoparries, molungees, or others, for the provision of a specific quantity of salt, are to be made in writing, attested by at least two criditable witnesses, and are to be signed by the agent, or any of his officers, whom he may empower to sign them; and one copy of them is to remain with the agent or his officer, and the other is to be delivered to the party contracted or engaged with, in all practicable cases; security shall be taken for the performance of such contracts and engagements, and the contractor shall have the option of delivering the salt, either by weight or measure; the mode of delivery being specified in his contract." 8. "When advances are made to contractors or others, the money shall be counted and examined by them, or the persons

Exceptions.

Sec. 6. Penalty for contractors, byoparries and molungees using compulsion.

Sec. 7. Contracts for salt to be made in writing, and attested by at least two witnesses.

Security to be taken for the due performance of contracts, in all practicable cases.

Sec. 8. Money advanced to be of pro-

persons appointed on their part to receive the money, previous to their signing the receipts, and the agents shall be careful that the money is of proper weight; and in contracts, the periods for making the advances shall be specified, and the advances made accordingly." 9. "Where it is customary to enter into contracts with byoparries or others, for the provison of a specific quantity of salt, and to leave the contractor to engage the necessary number of salt-workers, or labourers, and to make the advances to them, the agent and his officers are prohibited from deputing peons, or other persons, to assist the contractors, in collecting salt-workers or labourers, but are to leave the contractors to hire persons willing to enter into their employ. Where it is customary for the agent to procure the salt-workers or labourers for the contractor, he shall not depute peons, or other persons, with the contractors, to collect the salt-workers or labourers, or leave the contractors to make the advances to them, but shall himself, or by means of his officers, hire the requisite number of salt-workers or labourers, and cause the money to be advanced to them in the public cutchery, in his own presence, or in the presence of his officers appointed for the purpose; and shall take, or cause to be taken, receipts for the money so advanced to the salt-workers or labourers, under their signature or mark, and attested by at least two creditable witnesses. This rule, with regard to advances to labourers, is to be observed in cases where no contracts may be made, and where the salt may be deliverable by the salt-workers or labourers, immediately to the officers of the agent." 10. "Labourers or salt-workers shall not be considered to have engaged to work in the manufacture, until they have received money as advances, and given a receipt for the amount." 11. "To prevent persons who may voluntarily receive advances, and give a receipt for the amount, afterwards declaring that they were compelled to receive the advances, in order to get released from their engagement, the courts, in the event of any complaint being made to them by a labourer, or other person, that he was compelled to receive advances, are directed, excepting in cases in which they

per weight, and to be examined and counted by the receivers.

Sec. 9. How advances are to be made to salt workers or labourers, in cases of contracts, where the agent is, or is not, bound to procure them, and in cases where the salt is delivered by the manufacturer to the officers of the agent.

Sec. 10. Labourers or salt-workers not to be considered as having engaged, until they have received advances, and signed receipts.

Sec. 11. Rules for preventing persons who may voluntarily receive advances, afterwards returning them under the pretext of their having been compelled to receive them.

they may have full and satisfactory evidence before them, that compulsion was used, to consider the receipt as evidence, *primâ facie*, of the advances having been voluntarily received; and they shall not release the complainant from his engagements, or prevent his proceeding to the place of manufacture, should he not have proceeded there, nor bring him from thence, should he have repaired thither, until they shall have completed the trial of the complaint, and shall be satisfied that the engagement was compulsive, and repugnant to this regulation. The agents are to apply this rule in similar complaints that may be preferred to them." 12. "Overseers, gomastahs, peons, and all officers in the employ of the agent, are prohibited from taking or receiving any tullubanah, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatever, from any molungee, byoparry, contractor, labourer, or other person employed or concerned in the provision, manufacture, or transportation of salt; and if any of the above descriptions of persons, under the authority of the agent, being a native, shall be convicted of disobedience to this injunction, he shall be compelled to pay four times the amount so taken, or received, to the party injured, and be dismissed from his office; and if he be a European, he shall be made to pay the above sum to the injured party, and be immediately dismissed, and sent to Calcutta." 13. "The abuses which heretofore existed in the salt manufacture, having originated chiefly in the number of intermediate persons employed between Government and the manufacturers, the agents are required, in all practicable cases, to conclude engagements for the provision of salt with the persons by whom it is actually manufactured." 14. "The agents shall occasionally depute creditable persons for the purpose of inspecting the different places of manufacture during the boiling season, and report the condition of the labourers, and any ill treatment they may have experienced, in order that immediate relief may be afforded to them, with such further redress, either during or after the expiration of the season, as they may be entitled to; and the agents are enjoined to redress all complaints that

Sec. 12. Penalty for officers of the agent guilty of exactions.

Sec. 13. In all practicable cases, engagements to be concluded with the immediate manufacturers.

Sec. 14. Agents to depute persons in the boiling season to afford relief to the labourers where necessary.

that may be transmitted to them by the persons so deputed." 15. "Native officers employed under the agents, who may be convicted of disposing, or conniving at the disposal, of the salt manufactured on account of the Company, to others, or of making salt for themselves, or conniving at any other person making salt on their private account, embezzling the Company's salt, or property entrusted to them, or of writing false balances in their accounts, shall, on conviction in the Dewanny Adawlut, forfeit double the value of the salt so made, or the property so embezzled, or of the amount of the balances so alienated, in addition to the costs of suit; and be further liable to imprisonment for such term as to the court may seem proper, not exceeding twelve months; and upon the circumstrnces being represented by the Board of Trade to the Governor General in Council, he will, if it shall appear to him proper, declare the offender incapable of serving Government in any capacity." 16. "All officers of Gomment, proprietors and farmers of land, talookdars and under-farmers, and ryots, and their officers, agents, and dependants, are required not to hinder the salt agents, or their officers, from access to molungees, or other persons, in order to treat with them respecting the business of the manufacture; nor are they to use any arts, menaces, or punishment, to deter persons from accepting advances; under pain of being liable to be sued for damages in the Dewanny Adawlut." 17. "All officers of Government, proprietors and farmers of land, talookdars, under-farmers, and ryots, and their officers, agents, and dependants, are strictly enjoined not to behave with disrespect to the salt agents, or their officers, or in any wise to throw obstructions in the way of the manufacture; and they are required, on application from the agent, or any of his officers, to afford every assistance in their power, towards promoting the manufacture, which may be consistent with the authority vested in them, and the regulations." 18. "Persons actually employed in the salt manufacture, who cultivate or rent lands, are to pay according to their pottahs or engagements, in the same manner as other ryots or renters; under

Sec. 15. Penalties for native officers convicted of the offences herein specified.

Sec. 16. No persons to use means to prevent individuals engaging in the salt manufacture.

Sec. 17. No persons to behave with disrespect to the salt agents or officers. Nor to impede the manufacture, but to assist it to the utmost of their power.

Sec. 18. Persons employed in the salt manufacture, renting or cultivating lands, subject to the same

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Rules as other renters or cultivators. Exception.

the same rules and regulations; with the exceptions specified in Sections 19 and 21, as to the mode of demanding and enforcing payment of arrears during the manufacturing season, which is to be considered as commencing on the first day of Kautic, and ending on the last day of Assar."

Sec. 19. Rules for the recovery of arrears of rent from persons employed in the manufacture.

19. *First.* "To prevent unnecessary interruption to the manufacture, and, at the same time that persons employed in it may not withhold the rents justly due from them for lands which they may rent or cultivate, the following rules are prescribed.

Not to be summoned during the manufacturing season.

Second. From the beginning of Kautic to the end of Assar, no person under engagements, and employed in the salt manufacture, shall be summoned to the cutchery of any proprietor or farmer of land, or any native holding or entrusted with the collection of the rents or revenue of lands, under any pretence whatever.

Demand to be enforced by distraint, suit, or application to the agent.

If any such proprietors, farmers, or natives, shall have a claim for, or relating to rent, on any persons so engaged and employed, and shall be desirous of enforcing it during the period abovementioned, they shall either distrain for the amount under Regulation 17, 1793; or sue the stated defaulter for it in the Dewanny Adawlut; or state their claim in writing to the agent; who, if he shall deem it expedient so to do, shall cause the stated defaulter to satisfy the claim, or satisfy it himself; and stop the amount by kistbundy from his future advances, so that his labour on account of the manufacture may not be interrupted.

Salt, advances, or implements of the Company not liable for the arrears.

If the claimant shall prefer applying in the first instance to the agent, and he shall not afford satisfaction for the claim, the claimant must distrain or commence a civil prosecution as above pointed out; but in the event of the claimant having recourse to distraint, the salt advances, or implements belonging to the Company, in the hands of the defaulter, shall not be liable for the claim."*

Sec. 20. Persons instituting

20. *First.* "Persons instituting

* The following additional provision is contained in Section 2, Regulation 9, 1801:—"The summary process authorized by Clauses First, Second, Third, Fourth, Fifth, and Sixth, of Section 15, Regulation 7, 1799, for the arrest and confinement of defaulting under-tenants of land, and their sureties, shall not be applied to under-tenants employed in the manufacture of salt, during the manufacturing season, as described

ing suits in the Dewanny Adawlut, against any of the officers of the agents, or any individuals under engagements on account of the salt manufacture, and employed therein, are to specify their being so engaged and employed. If the summons is to be served during the months of Sawun, Bhadoon and Assin, it shall be served on the defendant in the same manner as on other defendants not employed in the salt manufacture. If the summons is to be served between the commencement of Kautic and in the end of Assar, the summons, with a copy of the complaint, shall be enclosed in a sealed cover, addressed to the agent, and superscribed with the official signature of the judge or register. It shall be at the option of the agent to execute, or to cause one of his officers, or any other person whom he may think proper, to execute the security required from defendants by Section 5, Regulation 4, 1793,* and also the security directed by Section 9, Regulation 7, 1793, for the fees of the authorized vakeel whom he may entertain; or to leave the party summoned to find the required security; and in the latter case, and in the event of the summons being committed to an officer of the court, if the officer shall entertain doubts of the responsibility of the security so offered, and the agent shall declare it to be responsible, the officer shall accept the security. If the agent shall not deem it expedient to order any of his officers, or any other person, to become security, and the defendant himself shall not be able to find a security, whom the agent may deem responsible, the agent is to cause

tuting suits against individuals employed in the salt manufacture, to specify their being so employed.

Summons to be served immediately on the defendants, during Sawun, Bhadoon, and Assin.

Summons to be served through the agent during the manufacturing season.

Who may himself become security, or order any other person to become security.

Case in which the defendant is to accompany the officer to the court.

described in Section 18, Regulation 29, 1793, viz. from the commencement of the month of Kautic, to the end of the month of Assar. The rent payable by persons so employed can seldom be so considerable as not to be recoverable by distraining their crops and other personal property, as authorized by Regulations 17 1793; 35, 1795; and 7, 1799; provided the distress be levied in due time; but if in any instance an arrear of rent should be due from a person employed in the manufacture of salt, which cannot be realized by distraining his crops and other personal property (and that of his surety, if he shall have given security,) the proprietor, or farmer of land, to whom such arrear may be due, or his authorized representative, is to proceed for the recovery of it, in the mode directed by Section 19, Regulation 29, 1793."

* See alteration of this section by amended rules of process in Regulation 2, 1806, Vol. 1, page 601.

the

the party summoned to accompany the officer of the court to the court; or, if the summons shall not have been committed to the charge of an officer, he shall cause him to be conveyed before the court." *Second.* "The salt agents are to empower their respective assistants, whether covenanted servants of the Company, or Europeans not in the Company's service, and the head officer of each of the principal aurungs or places of manufacture, and also an authorized vakeel of the Dewanny Adawlut, or any other person whom the agents may think it proper to station at the place at which the court may be held, to execute the securities specified in the preceding clause, for persons employed in the salt manufacture; and also to redress complaints that may be preferred to them by molungees, labourers, or others, working under their respective aurungs, against their subordinate officers, or any molungees or persons employed in the salt manufacture, on account of matters relating to the manufacture, but no other. The agents are to be careful to keep the judge furnished with a list of the persons so empowered, specifying also the place at which they may usually reside; and the judges are authorized, in instances in which they may deem it proper, either from the distance of the place of abode of the agent, from the place at which the person to be summoned may reside, or other circumstances, to order the summons to be enclosed to one of the persons so empowered to become security, instead of transmitting it to the agent himself under the preceding clause; in which case, such person shall proceed in the manner prescribed to the agent, where the summons may be sent immediately to him." *Third.* "If a suit shall be preferred in the Dewanny Adawlut against any of the officers of the agents, or any person under engagements on account of the salt manufacture, and employed therein, without specifying that he is so engaged and employed, and a summons shall in consequence be ordered to be served on him, in the same manner as on other defendants, between the commencement of Kautic and the end of Assar, the officer serving the summons, on the circumstance of the defendant being so employed, being notified to him by the

Agent may likewise empower the persons herein specified to execute securities, and to redress complaints in matters relating to the manufacture.

Judge to be furnished with a list of such persons, and their places of abode.

Judges may send the summonses to the persons so empowered, instead of the agent.

How summonses are to be executed where the plaintiff shall not specify, that the defendant is employed in the salt manufacture; and the summons shall be issued in the same manner as to other defendants.

the agent, or any of his officers, or by the defendant himself, shall deliver the summons to the nearest person, empowered to execute securities, whether the agent, or his assistant, or the head officer of an aurung; who shall proceed in the manner prescribed to the agent in Clause First. If the officer shall receive the notification of the defendant being employed in the manufacture from the defendant only, and shall entertain doubts of his being so employed; or if he shall not entertain any such doubt, but shall apprehend that he will abscond, whilst he (the officer) is repairing with the summons to the person empowered to execute the securities; he shall, in such case, carry the defendant, with the summons, to the person so empowered; and shall not release his person until the required securities have been executed." *Fourth.* "In cases in which a person under engagements on account of the salt manufacture, and employed therein, shall be charged before the magistrate with a bailable offience, and the warrant shall be ordered to be served at any period between the commencement of the month of Kautic, and the end of Assar, the warrant shall be served in the manner directed in the preceding clauses with regard to summonses in civil cases, with this difference, that the warrant shall require the party summoned to appear in person or by vakeel, as the magistrate may think proper, either during or after the manufacturing season; and specify the sum for which the security or recognizance for the appearance of the defendant is to be given; the amount of which shall be regulated by the magistrate according to the nature of the offence, and the situation and circumstances in life of the defendant."* *Fifth.* "In all the cases specified in the preceding clauses of this section, the agent, or his assistant, or head officer, through whom the summons or warrant may be served, shall return on the back of it, in what manner it has been served, and by whom the security has been executed." *Sixth.* "If a charge shall be preferred to a magistrate against any of the

How warrants for bailable offences against persons employed in the salt manufacture are to be served during the manufacturing season.

Return to be made on the back of summonses and warrants served as above directed.

Warrants for offences not bailable, how to be executed.

* By Section 4, Regulation 9, 1801, this clause is further declared applicable "to warrants on a charge of resistance of process *only*, (viz. without any aggravating crime,) issued against any person employed in the salt manufacture, during the manufacturing season."

persons employed in the salt manufacture.

officers of the agents, or any person under engagements or account of the salt manufacture, and employed therein, for an offence that is *not bailable*, and there shall appear to the magistrate sufficient ground for apprehending the person so charged, the warrant for his apprehension shall require him to appear immediately in person; and shall be executed at all times in the same manner as upon persons not so engaged, or employed. But the officer, after securing the offender, is to give notice thereof to the agent, or the head officer of the nearest aurung, or place of manufacture." *Seventh.* "The darogahs of police are to observe the rules prescribed in Clauses Fourth and Sixth of this section, in all complaints that may be preferred to them against molungees, labourers, or other persons in the employ of the Company." *Eighth.* "In all cases in which the agents, or their head officers, empowered for that purpose, shall become security under any of the clauses of this section, for the appearance of any officer or person employed in the salt manufacture, or for the fees of vakeels; or shall declare any person whom the party summoned may offer as security, to be responsible; the agent is to be considered personally answerable for the due performance of the conditions of the security, in the event of the party, for whom the security may be given, not performing them himself; or, where the party himself shall have given the security, and it shall have been declared responsible by the agent or his officers, in the event of the party or such surety not performing them. It will accordingly be the business of the agents to take care to employ creditable persons only as head officers to superintend the business of the aurungs, and to become security and redress complaints; and to furnish them with proper instructions; and to take such security from them as they (the agents) may deem sufficient to indemnify themselves for the consequences that may result from any abuse, which such officers may commit in the exercise of their trust." *Ninth.* "Summonses to officers or other persons employed in the salt manufacture, to appear as witnesses, shall be served during the manufacturing season, in the same manner, as if they were parties in the cause; but the judges are to be careful

Darogahs of police to observe the rules in Clauses Fourth and Sixth.

Agents and their officers to be responsible for the performance of the conditions of the securities they may execute or approve.

How summonses on persons employed in the salt manufacture are to be executed, when required as witnesses.

careful not to summon such officers, or persons, excepting when their attendance shall be necessary; and on their appearance, to have them examined and dismissed with all practicable dispatch; so that they may be absent from the business of the manufacture as short a time as possible." *Tenth.* "The agents, and their European and native officers, are declared liable to be sued in the Dewanny Adawlut, should they apply any of the rules in the preceding clauses of this section, regarding summonses and warrants issued against persons employed in the manufacture of salt, to persons not *bonâ fide* so employed. And as the rules contained in those clauses are intended only to prevent unnecessary interruption to the manufacture, where it can be avoided without impeding the course of justice, the judges and magistrates are empowered, in particular cases, in which it may appear to them indispensably necessary for the purposes of justice, to order the personal attendance of any native officer or person, in any wise concerned or employed in the salt manufacture, whether he may be a party or a witness in the suit, or prosecution, at any time during the manufacturing season, notwithstanding any thing that may be said to the contrary in those clauses; and to cause process to be executed upon him for that purpose, in the same manner as upon other individuals; but in such cases, the judges and magistrates are to record on their proceedings their reasons for deviating from the prescriptions contained in the said clauses; which are to be considered as the general rules for issuing and executing such summonses and warrants; and in the summons or warrant, they are to specify, that it has been specially ordered to be so executed, in virtue of the discretionary power vested in them by this clause; and they are moreover strictly enjoined to refrain from every unnecessary exercise of that power." 21. "If a decree shall be passed against a native officer, or any person under engagements on account of the salt manufacture, and actually employed in it, and the court shall order the decree to be enforced, at any time between the commencement of Kautic, and the end of Assar, recourse may be had to his property; but his person shall not be attached or molested during

Agents and their officers forbidden to apply the above rules to persons not employed in the salt manufacture.

Discretionary power vested in the judges and magistrates of causing the immediate attendance of all natives employed in the salt manufacture, at any period.

Restrictions under which this discretionary power is to be exercised.

Section 21. How decrees against natives employed in the salt manufacture are to be enforced.

during that period. At the close, however, of the manufacturing season, the agent shall be responsible for his appearance before the court, if required; but the salt, or the advances, or any implements belonging to the Company, which may be in his hands, shall not be liable for the decree. But during Sawun, Bhadoon and Assin, and also in the manufacturing season, if the salt agent shall signify to the judge, through an authorized vakeel of the court, that their attendance is not required in the business of the manufacture, the persons of all such individuals so employed, shall be equally amenable with their property for decrees." 22. *First.* "The salt agents, and their assistants, whether covenanted servants of the Company, or Europeans not in the Company's service, and their native officers and agents, are declared liable to be sued in the Dewanny Adawlut for any breach of this regulation, or any other regulation that may be passed and printed in the manner directed in Regulation 41, 1793; but under the rules and restrictions prescribed in the following clauses of this section." *Second.* "During the manufacturing season, if any molungee, or a labourer, or any other person, who may be employed in the salt manufacture, shall deem himself aggrieved by any act or order of the agent himself, he shall, in the first instance, state his complaint in person, or by vakeel, to the agent; and in the event of the agent refusing to afford him the required redress, or of his omitting to grant it within a reasonable time, the complainant shall be at liberty to sue him in the Dewanny Adawlut." *Third.* "During the manufacturing season, if a molungee, or a labourer, or any other person, who may be employed in the salt manufacture, shall deem himself aggrieved by any act of the assistant to the agent, or the head officer of an aurung, or place of manufacture, vested with the power of becoming security, and redressing complaints, he shall, in the first instance, state his complaint, in person or by vakeel, to the agent, or the officer from whom he may have sustained the injury. If he shall first apply to such officer, and he shall refuse to afford him the required redress, or omit to grant it within a reasonable time, he shall have recourse to the agent, and if he shall

Section 22. Agents and all officers amenable to the courts of judicature for official acts done in breach of any regulation, published as directed in Regulation 41, 1793.

During the manufacturing season, molungees, and others, to apply in the first instance to the agent for redress, if they shall deem themselves aggrieved by him. 2.

How molungers, &c. are to obtain redress in the boiling season against the head officers of the aurungs.

shall, in like manner, omit or refuse to give redress, the complainant shall be at liberty to sue the officer from whom he may have sustained the injury, or the agent, in the Dewanny Adawlut; and the court shall hold the officer or the agent responsible accordingly." *Fourth.* "During the manufacturing season, if any molungee, or labourer, or other person, who may be employed in the salt manufacture, shall deem himself aggrieved by any native officer, subordinate to the head officer of the aurung, under which he may work, or by any contractor, byoparry, or molungee; he shall, in the first instance, apply for redress, in person or by vakeel, to the agent or his assistant, or to the head officer of the aurung; and in the event of his applying first to the assistant, or head officer, and being refused redress, or not obtaining it in a reasonable time, he shall have recourse to the agent; and if he shall, in like manner, omit or refuse to give redress, the complainant may sue either the party from whom he may have sustained the injury, or the agent, or officer, to whom he may have applied for redress, in the Dewanny Adawlut; and in the event of his suing the agent, or such officer, the court shall consider him responsible, in the event of the plaintiff establishing his complaint, in the same manner, as if the complainant had received the injury immediately from him." *Fifth.* "In the cases specified in the three preceding clauses, the courts are not to receive the suit of the complainant, unless he shall prove, either by oath, or in any other mode which the court may deem satisfactory, that he made the previous application for redress to the agent, as directed in those clauses." *Sixth.* "In the several cases specified in Clauses Second, Third and Fourth, of this section, the complainant, if the engagements, which he may have entered into on account of the manufacture, be not completed, shall not quit the place of manufacture, to prosecute his complaint in person, without the permission of the head officer of the aurung, under which he may work, or of the agent, or his assistant; but shall employ a vakeel for that purpose, unless he shall offer to substitute a person to perform his work in his room; and the agent, or his assistant, or the head officer of the aurung,

How molungees, &c. are to obtain redress in the boiling season against any persons under the authority of the head officers of the aurungs.

Courts not to receive complaints specified in the three preceding clauses, unless satisfied that the required previous application for redress has been made.

Complainants not to quit their work to prosecute complaints in the cases above specified, but to employ vakeels.

Exceptions.

aurung, shall be of opinion, that the work will be equally well performed by the person so offered to be substituted; in which case the agent, or his assistant, or officer, shall permit the complainant to depart." *Seventh.* "Agents may take upon themselves the redress of complaints depending before their assistants, or head officers empowered to redress complaints; and they may also set aside, or alter, the awards on any complaints that may have been given by their assistants or head officers; and give such award, as may appear to them equitable." *Eighth.* "Complainants, or persons complained against, who may be dissatisfied with the awards of the agents, or their assistants, or head officers, may appeal therefrom to the Dewanny Adawlut; and the appeal shall be admitted, provided it be preferred to the court before the commencement of the ensuing manufacturing season; or it may be admitted after that period, if the party appealing can show to the court satisfactory cause for not having preferred the appeal within the limited time." *Ninth.* "The agents are authorized, in cases in which they may deem it advisable so to do, to undertake the defence of any suit that may be instituted in the Dewanny Adawlut, against their assistants, or any of their officers, or other persons employed by them in the business of the manufacture; but in such cases, the agent himself is to be considered as responsible for the decree of the court." *Tenth.* "During the months of Sawun, Bhadoon, and Assin, molungees, labourers, and all other persons, having entered into engagements on account of the salt manufacture, or having been employed in it, who may consider themselves aggrieved by any acts done by the agent, or his assistant, or any of his officers, or other persons employed by him, in breach of this regulation, or any other regulation printed and published in the manner directed in Regulation 41, 1793, are declared to have the option of suing, either in person, or by vakeel, the party from whom they may have sustained the injury, in the Dewanny Adawlut, without preferring the previous application for redress, directed in the preceding clauses of this section, to be made during the manufacturing season; or they may pursue the mode

Agents may take upon themselves redress of complaints made to their officers.

Persons dissatisfied with the awards of the agents, may appeal to the Dewanny Adawlut.

Agents may undertake the defence of any suits instituted in the adawlut against their officers.

In Sawun, Bhadoon and Assin, any person employed in the Salt Department may sue the agent, or any of his officers, or others, in the adawlut, without making any previous application whatever for redress.

Or, they may make previous application for redress, as directed in this section, in the manufacturing season.

mode of redress pointed out in those clauses; and the parties, bound thereby to give redress, shall afford it, in the same manner, as if application had been made to them for that purpose during the said season; and further, with a view to ensure to the molungees, labourers, and other persons engaged in the manufacture, speedy redress of injuries they may sustain, the courts are required, in cases in which they may prefer the former mode of applying for redress pointed out in this clause, to bring the suits to a termination as expeditiously as possible, by trying them in preference to other suits." 23. "When any process or order shall be issued by the courts of civil judicature, or the magistrates, to a salt agent, or his assistant, the judge, or the register of the court, is to forward it under a sealed cover, addressed to the agent or assistant, and superscribed with his official attestation. The agent, or his assistant, is immediately to acknowledge the receipt of the order, or process, by an endorsement to that effect on the back of it; and is to return it under a sealed cover, addressed to the judge or register."

Section 23. How process of the courts to salt agents and their assistants is to be served on them.

24. "In cases in which suits may be instituted in the Dewanny Adawlut against an agent or his assistant, or the head officer of an aurung, for a breach of this regulation, or any other regulation printed and published in the manner directed in Regulation 41, 1793; and where the act complained of shall not have been done, pursuant to special orders from the Board of Trade, or the Governor General in Council; the agent, or his assistant, or officer who may be prosecuted, is to appoint an authorized vakeel of the court to defend the suit at his own risk."

Section 24. In suits of a personal nature, instituted against salt agents and their officers, they are to appoint vakeels, and defend the suit at their own risk.

25. "In cases in which the agents, or their assistants, or any of the head officers of the aurungs, may be sued for an official act done in pursuance of the orders of the Governor General in Council, or of the Board of Trade; or in cases in which they may be ordered, by either of those authorities, to defend or prosecute a suit; the prosecution or defence shall be carried on at the expense of Government, either by the vakeel of Government, or any other authorized vakeel of the court, as the Board of Trade or the agent may deem proper, notwithstanding any thing that may be said to the contrary in any regulation

Section 25. Where salt agents or their officers may or be engaged in suits pursuant to orders from the superior authorities, they are to be carried on at the public expence.

Section 26. Cases in which the Board of Trade may make agents or their officers responsible for the whole or any part of costs or damages, or decrees of the courts.

regulation passed on this date." 26. "If the Board of Trade shall approve, either wholly or in part, of a decision given against an agent or his assistant, or any of his head officers, in suits of the description of those specified in Section 24, they are empowered to make the person, against whom the decision may be given, or the act complained of may have been done, responsible for the whole or any part of the costs and damages awarded by the decree; or of the decree itself, if upon a consideration of the merits of the case, and of the conduct of the person against whom the decree may be given, or by whom the act complained of may have been done, they shall be of opinion, that Government ought not to be charged with all or any part of such costs or damages, or of the amount decreed. But in such cases, the person whom the Board may so hold responsible, shall be at liberty to appeal the cause at his own risk."

Section 27. Board of Trade may authorize an appeal from any decision passed against the agents or their officers.

27. "If the Board of Trade shall be dissatisfied with any decree passed against an agent, or his assistant, or any of his officers, either in suits of the description of those specified in Sections 24, or 25, they may authorize an appeal from it under the regulations; in which cases, the appeal shall be carried on in the provincial court, and in the Sudder Dewanny Adawlut (should the cause be carried to the last mentioned court,) by the vakeel of Government, or by any other authorized vakeel of the court into which the cause may be brought, notwithstanding any thing that may be said to the contrary in any regulation passed on this date."

Section 28. Security not to be demanded from agents, or their assistants, or head officers of aurungs, for costs or damages or the performance of decrees of the courts.

28. "Security is not to be demanded from the agents, or their assistants, nor from the head officers of aurungs, whom they may empower to become security and redress complaints, for their personal appearance in any suit in which they may be engaged in their official capacity; nor for the payment of costs or damages, or for the performance of the decrees or orders of the court. The Governor General in Council will be responsible that the agents, and their assistants, who may be covenanted servants of the Company, shall answer the suits that may be instituted against them, and fulfil the decrees of the courts; and he will hold the agents answerable, that their European

pean assistants, who may not be in the service of the Company, shall appear to answer suits preferred against them, and make good the decrees that may be passed against them. With regard to the native officers, subordinate to the head officers of the aurungs, and all other persons employed in the manufacture, security must be taken from them, and the decrees passed against them enforced, in the manner directed in Sections 20 and 21." 29. "The agents, their assistants, and head officers of aurungs, shall not be liable to prosecution for any official acts of their predecessors. But persons who may be removed from any agency, or an assistantship, or the appointment of head officers of an aurung, are to carry on, in the same manner as if they had continued in the office, all suits instituted against them in their official capacity; unless the Board of Trade, upon a consideration of the circumstances of the cases, shall deem it advisable to order the agent, for the time being, to carry on the suits. This rule, however, is not to extend to suits in which an agent, or an assistant, or head officer of an aurung, who may have been removed, shall have been engaged, in virtue of orders from the Board of Trade, or the Governor General in Council. All such suits are to be carried on by the agent, for the time being, at the risk of Government." 30. "To facilitate the communication between the agents and their assistants, and head officers of aurungs, and the vakeels in the zillah or city courts, or the provincial courts of appeal and the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any suits or appeals, in which they may be engaged in their official capacity, either whilst they may continue in the office, or after their removal from it, they are permitted to forward, free of postage, any instructions which they may have occasion to transmit to the vakeels of those courts. The instructions are to be enclosed under a sealed cover, directed to the vakeel. The instructions so sealed and directed are to be transmitted, under a sealed cover, addressed to the register of the court, in which the cause may be depending, and are to be superscribed with the name and the official appellation of the person dispatching

Section 29. Agents, &c. not liable to prosecution for the acts of their predecessors.

What suits they are bound to defend after removal from office.

Section 30. Agents, &c. allowed to forward instructions to their vakeels in the courts of appeal by the dawk, free of postage.

Instructions to be sealed and enclosed under a sealed cover, addressed to the register of the court.

ing them, or that which he bore, when the cause of action arose. The register of the court, immediately on receiving the instructions, is to deliver them sealed to the vakeel to whom they may be directed. In like manner, the vakeels in any of the courts to whom the pleading of such suits or appeals may be committed under this regulation, by persons holding or having held the office of agent, assistant, or head officer of an aurung, are authorized, either whilst their constituents remain in such office, or after they shall have been removed from it, to forward any papers which they may have to convey to their constituents, by the public dawk, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the vakeel; and the judge or the register of the court is to transmit the papers, so sealed, in a cover, addressed to the person to whom they are to be forwarded, and subscribe the cover with his official signature." 31. "In cases in which the Board of Trade may judge it expedient, or in which they may receive orders, for the purpose, from the Governor General in Council, they shall take upon themselves the superintendence of the prosecution, or defence, of any suit or appeal, in which they or their officers may be engaged, either in a zillah or city court, a provincial court of appeal, or the Sudder Dewanny Adawlut; instead of leaving the superintendence of the conduct of the suit or appeal to the agent or any other officer." 32. "The agents, and their assistants, and head officers of aurungs, are not to derive any advantage whatever from suits in which they may be engaged, in any of the courts of justice, in their official capacity. On the other hand, it is not intended that they should sustain any loss in consequence of such suits, when their conduct may be approved by the Board of Trade, or the Governor General in Council. The agents, and their assistants, and head officers of aurungs, are accordingly to bring to the credit of the Company, in their public accounts, all sums whatever that may be adjudged to them by any of the courts of justice; and they are to note at the foot of their accounts, or in a separate account, or under a distinct head in their accounts, according as the Board of

Section 31. Cases in which the Board of Trade are to take upon themselves the prosecution or defence of any suit, or appeal.

Section 32. Agents, and their assistants, and head officers, not to derive any pecuniary advantage from suits in which they may be engaged.

Nor to suffer any loss, if their conduct be approved by the superior authorities.

To bring to account all sums adjudged to them and to issue from their treasury the expences of suits in which they may be engaged, but not to pass them to the debit of Government,

of Trade may direct, all sums which they may disburse, or be adjudged to pay, on account of any suits or prosecutions in which they may be engaged or concerned, in their official capacity; but no such disbursements or payments are to be considered as passed to the debit of Government, until the previous sanction of the Board of Trade shall have been obtained for that purpose; and until such sanction is procured, the agents, or their assistants, or head officers on whose account the disbursements or payments may be made, are to be held answerable for the amount." 33. "If any byoparry, molungee, or other person, who may have received advances on account of the salt manufacture, or have been employed in it, shall deem himself aggrieved by any act done in breach of this regulation, by an agent, or his assistant, or the head officer of an aurung, pursuant to special orders from the Board of Trade, or the Governor General in Council, he will be at liberty to seek redress in the mode prescribed for such cases in Section 11, Regulation 3, 1793."*

without the sanction of the Board of Trade

Section 33. Natives aggrieved by acts done in opposition to this regulation, pursuant to orders from the Governor General in Council, or the Board of Trade, how to obtain redress.

The resources derived from the salt monopoly having been found liable to suffer injury from the officers of the salt chokies, stationed in different parts of the country, to prevent an illicit trade in salt, being obliged on every occasion of complaint to quit their stations, to attend the courts of judicature, as defendants or witnesses, by which an opportunity was afforded to smugglers, of passing salt in their absence; the following *rules to be observed on summoning the officers of the salt chokies* were enacted in Regulation 4, 1798. §. 2. "The Board of Trade, the salt agents, and the aumeen at Narraingunge, under whose immediate superintendence the officers of the salt chokies act, are to be careful to keep the several judges, in whose jurisdictions the chokies are stationed, furnished with lists of the chokies, pointing out their situations, and specifying the names of the officers attached to them; and in the event of any change taking place in the situation of a chokey, or among the officers belonging to a chokey, the

Rules to be observed in summoning officers of the salt chokies, to attend the courts of judicature, prescribed by Regulation 4, 1798.

Section 2. Board of Trade, salt agents, and aumeen at Narraingunge to furnish the judges with lists of the chokies and officers attached thereto, and notify all changes thereing.

* See volume I. pages 44 and 623. See also amended rule in Section 2, Regulation 2, 1814, volume II, page 423.

same

Section 3. How summonses are to be served in civil suits against the officers of the salt chokies.

same shall be immediately notified to the judge." §. 3. "Persons instituting suits in the Dewanny Adawlut against any of the officers of the salt chokies, are to specify the nature of their employment; and the summonses to be served upon such officers, with a copy of the complaint against them, shall be enclosed in a sealed cover, either to the Board of Trade, the salt agent, or the ameen at Naraingunge, (according as the party summoned may be under the superintendence of one or other of them,) who will, without delay, send persons to take charge of the chokey, and cause the party summoned to occompany the officer of the court to the court; or if the summons shall not have been committed to the charge of an officer, they shall cause such party to be conveyed before the conrt."* §. 4. "In cases in which an officer of a salt chokey shall be charged before a magistrate with a bailable offence, the warrant shall be served in the manner directed in the preceding section, with regard to summonses; and the party, to whom the warrant may be sent under cover, shall cause the officer summoned to give the requisite bail, or immediately to appear in person, or by vakeel, as the magistrate may think proper to require in the warrant."

Section 4. How warrants are to be served when the officer of the salt chokies are charged with bailable offences.

§. 5. "If a charge shall be preferred to a magistrate on oath against any of the officers of the chokies, for an offence that is not bailable under the regulations, and there shall appear to the magistrate sufficient ground for apprehending the persons so charged, the warrant for their apprehension shall be executed at all times in the same manner as upon persons not chokey officers. But the officer of the court, after securing the offender, is to give notice thereof either to the Board of Trade, the salt agent, or the aumeen at Narraingunge, according, as the offender may be under the superintendence of one or other of them."

Section 5. Warrants for offences not bailable to be executed in the usual manner, but notice to be given to the Board of Trade, &c. of the apprehension of the salt officers.

§. 6. "The darogahs of police are to observe the rule laid down in Section 4, of this regulation, in all complaints that may be preferred to them against officers of the salt chokies," §. 7. "Summonses to officers of the salt chokies, to appear as witnesses, shall be served in

Section 6. Police officers to observe the rule laid down in Section 4, in all complaints preferred to them.

Section 7. Rules for summoning salt officers as witnesses.

* This rule was passed before the enaction of Regulation 2, 1806, under which the personal attendance of persons sued in the civil court is not required; nor even security in the first instance, except in special cases. See Vol. I. page 601.

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the manner above prescribed in Section 3; but the judges are to be careful not to summon such officers, excepting when their attendance shall be necessary; and on their appearance, they are to have them examined and dismissed with all practicable dispatch, so that they may be absent from their chokies as short a time as possible." §. 8. "The rules contained in this regulation being intended only to prevent injury to the resources derived by Government from the salt manufacture, when it can be avoided without impeding the course of justice; the judges and magistrates are empowered, in particular cases, in which it may appear to them indispensably necessary for the purposes of justice, to order the personal attendance of any chokey officer, whether he may be a party or witness in the suit, or prosecution, notwithstanding any thing that may be said to the contrary in this regulation; and to cause process to be executed upon him, for that purpose, in the same manner as upon other individuals; but in such cases, the judges and magistrates are to record upon their proceedings their reasons for deviating from the rules above prescribed, which are to be considered as the general rules for issuing and executing such summonses and warrants; and in the summons or warrant they are to specify, that it has been specially ordered to be so executed, in virtue of the discretionary power vested in them by this section; and they are moreover strictly enjoined to refrain from every unnecessary exercise of that power." §. 9. "If a decree shall be passed against an officer of a salt chokey, and the court shall order the decree to be enforced, recourse may be had to his property; but his person, if attached, shall not be removed without previous notice being given to the party under whose superintendence the officer acts, that another person may be immediately deputed to take charge of his place during his absence."

Section 8. Discretionary power granted to the judges and magistrates to proceed in the usual manner in special cases, but to record their reason for deviating from this regulation.

Section 9. The person of an officer of a salt chokey not to be removed under a decree without previous notice to the superintending officer.

The original rules, for preventing the illicit manufacture or importation of salt, which were enacted for the lower provinces in Regulations 30, 1793, and 40, 1795, not having proved effectual to secure the object intended by them; and the public resources arising

Original rules for preventing the illicit manufacture and importation of salt, in the lower provinces, not found effectual, and

New rules, for this purpose, enacted in Regulation 6, 1801.

arising from the exclusive privilege reserved by Government, of manufacturing and importing salt, having (as stated in the preamble to Regulation 6, 1801,) "been materially injured by the continuance of illicit practises;" the Governor General in Council, with a view to put a stop to the same, and to restore the public revenue arising from salt, rescinded the two regulations abovementioned, by Section 2, Regulation 6, 1801; and by the subsequent sections of that regulation enacted the following rules, to have effect in the provinces of Bengal, Behar, and Orissa.* 3. "Foreign salt, under which denomination is to be deemed to be included salt of every description made or produced without the limits of the provinces of Bengal, Behar, and Benares, and the part of the province of Orissa, subject to the dominion of the Company, shall not be imported into any part of the said territories, excepting on account of Government, or with their special sanction, or in virtue of a regulation printed and published in the manner prescribed in Regulation 41, 1793; and any salt which shall be imported, or shall be attempted to be imported, in disobedience to the prohibition contained in this section, shall be liable to confiscation." 4. *First.* "Salt manufactured on the island of Bombay, or in its neighbourhood, having often been imported into Bengal, under the denomination of Muscat salt; the privilege heretofore allowed of importing two hundred maunds of Muscat salt on a ship from Bombay, was discontinued; and certain rules respecting the importation of Muscat salt were adopted, which are now re-enacted." *Second.* "Salt under the denomination of Muscat salt, shall not be allowed to be imported into the provinces of Bengal, Behar, or Benares, or the part of the province of Orissa, subject to the dominion of the Company, unless such salt shall be im-

Section 3. The importation of foreign salt prohibited under the penalty of confiscation.

Exceptions.

Section 4. Rules respecting the importation of Muscat salt re-enacted.

Muscat salt to be imported in ships from Muscat, and to be accompanied by a certificate, authenticated by the officers of the customs at Muscat.

* The provisions of Regulation 6, 1801, were also ordered to have effect in the province of Benares; and some of them had express reference to Benares; but as part of these were here been rescinded by Section 18, Regulation 6, 1804; and others by subsequent regulations, especially by Section 18, Regulation 9, 1810; and Section 2, Regulation 17, 1810; which have been already stated under the head of Customs; it has been thought advisable to omit, in this place, such of them as are not of a general nature, and still in force.

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ported on a ship importing from Muscat, and shall be accompanied by a certificate, duly authenticated by the officers of the customs at Muscat, declaring that the salt is the produce of that place. "*Third.* "No greater quantity than five hundred maunds of such salt, each seer weighing eighty-two sicca weight, shall be imported on any one vessel." *Fourth.* "If any larger quantity than five hundred maunds of salt, under the denomination of Muscat salt, shall be imported in any one vessel, the whole quantity, so imported, shall be confiscated. Any person furnishing information of Muscat salt so illegally imported, shall receive a reward of twenty-five per cent on the value of the salt, to be calculated at the selling price of the salt of this description, disposed of at the last public sale, antecedent to the seizure; and the further proportion of twenty-five per cent upon such value shall be distributed among the officers of Government, who shall be immediately concerned in effecting the seizure. But should the seizure be made exclusively by the officers of Government, and not upon information, the officers concerned in making the seizure shall receive a reward of thirty-five per cent on the value of the salt, to be calculated in the manner abovementioned. A discretionary power is hereby reserved to the Board of Trade, to distribute the reward amongt the officers concerned in the seizure (supposing the seizure to be made by two or more officers,) in such proportions as their conduct respectively may appear to merit." *Fifth.* "All the rock salt from Muscat, hereby allowed to be imported, shall be delivered on shore at the Company's golahs, near Sulkea, on account of the Company, at the fixed price of Sicca Rupees two hundred for every hundred maunds, each seer weighing eighty-two sicca weight. The secretary to the Board of Trade shall furnish the collector of the Government customs with an account of the quantity of salt so imported; which shall be paid for at the salt office at the abovementioned rate, on the production of the golah keeper's receipt for the salt. The said salt shall not be chargeable with the rowannah duty of Sicca Rupees thirty per hundred maunds, nor with the import duty of four per cent on the

Quantity to be imported on any one vessel, restricted to 500 maunds.

If any larger quantity than 500 maunds of Muscat salt shall be imported on any one ship, the whole to be confiscated.

Reward on information of Muscat salt illegally imported, how to be calculated and distributed.

If a seizure be made exclusively by the officers of Government, and not on information, the reward how to be distributed.

All Muscat salt to be delivered at the Company's golahs at Sulkea at a fixed price.

Collector of Government customs to be furnished with an account of the quantity imported.

Muscat salt not to be charged with certain duties before levied.

Section 5. Advertisement of 25th of April 1796, incorporated into this regulation.

the assumed value, heretofore levied on such salt." 5. *First.* "The following advertisement issued by the Governor General in Council, under date the 25th April 1796, is hereby incorporated into this regulation." *Second.* "The Governor General in Council being desirous, that "all persons may be fully apprized of the pe-
"nalties to which all manner of vessels and their owners are liable
"for importing salt, into any part of Bengal, without having a
"previous license from the Honorable Company, or their Govern-
"ment, so to do; and having thought fit to order, that publicati-
"ons for that purpose shall be inserted in the Calcutta Gazette,
"and in the public prints at the presidencies of Madras and Bom-
"bay, as well in the English, as in the Persian and Native lan-
"guages; notice is hereby accordingly given, that all salt import-
"ed into any part of Bengal, in ships or vessels of any descripti-
"on, save and except such as are or shall be duly licensed under
"the regulations now subsisting, or by the authority of the Go-
"vernor General in Council, is liable to confiscation; and that
"the ships or vessels, in which the same shall appear to have
"been imported, are liable to confiscation also. And notice is
"hereby further given, that all salt, which shall be so imported,
"will be seized and sold for the benefit of the Honorable Compa-
"ny; and that all ships and vessels whatsoever, in which any
"salt shall be imported, other than and except such as are now,
"or shall hereafter be, duly licensed to import the same, will be
"seized: and that no such ships or vessels, which shall be so seiz-
"ed for importing salt without license, will, after the first day
"of August next, be released or restored, or allowed to obtain
"a port clearance, on any account whatsoever; except upon the
"condition of paying a penalty to the Honorable Company, with-
"in four months from the seizure, of ten Sicca Rupees per maund
"on all the salt so imported by the said ship or vessel; and in case
"such payment shall not be made within the time aforesaid, e-
"very ship or vessel, seized as aforesaid, will, after the expiration
"of such time, be confiscated and sold for the benefit of the Ho-
"norable Company, without further delay or notice to the mas-

The salt and ships or vessels of any description, so confiscated, shall be sold on account of the Honorable Company.

Exception.

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"ters or owners thereof." 6. "Salt shall not be made in the provinces of Bengal, Behar, or in the part of Orissa, subject to the dominion of the Company, excepting on account of Government, or with their express sanction; and all salt made, directly or indirectly, in disobedience to this prohibition, shall be liable to seizure and confiscation." 7. *First.* "The Governor General in Council having reason to believe, that kallaries, or salt pans, are established on the private account of individuals, it is hereby declared, that after the thirty-first day of August next, if it shall be proved that there exists, or that there shall have been established, subsequent to the date abovementioned, on the estate of any proprietor of land paying revenue to Government, (such proprietor being in the management of his own lands,) any kallaries or salt pans, or works of any description whatever, established for the manufacture of salt, excepting on the exclusive account of Government, the proprietor of such estate shall, on proof of the fact in the Dewanny Adawlut, be adjudged to pay a fine of five thousand Sicca Rupees to Government. The said fine shall be levied in the following manner. The village or other local division of land in which the said salt works shall have been established, or so much thereof as may appear to the court sufficient for realizing the said fine, shall be disposed of at public sale. If such village, or local division of land, shall not be considered to be equal in value to the amount of the fine, such further proportion of the landed property of the said proprietor, as may be deemed requisite for realizing the amount of the fine, shall be disposed of. If the whole of the landed property of such proprietor shall not be sufficient for realizing the fine, a portion of his personal property shall be disposed of, to make good the amount. If the amount of the fine cannot be recovered from the real and personal property of the proprietor, the court, executing the decree adjudging the payment of the fine, shall proceed against the person of such proprietor, under the regulations prescribed for enforcing decrees." *Second.* "In cases in which salt-works, of the description specified in the preceding clause, shall be proved to exist, or to have been established,

Section 6. Salt not to be made in the provinces, except on account of Government. If made in disobedience to this prohibition, to be liable to confiscation.

Section 7. Proprietors of land paying revenue to Government, being in the management of their own lands, liable to a fine, on proof that kallaries or salt-works of any description, not on account of Government, exist or shall have been established on their estates.

Amount of the fine how to be levied.

Persons holding farms immediately of Government, or

Officers of Government in charge of lands held khas, liable to a fine under the circumstances stated in Clause First of this section.

established subsequent to the 31st day of August next, in any lands held in farm immediately of Government, or held khas under the charge of an officer of Government, the person who held such farm, or the officer of Government in charge of such lands held khas, when such salt-works existed, or were established, shall be liable, on proof of the fact in the Dewanny Adawlut, to a fine of five thousand Sicca Rupees, payable to Government, and recoverable by the process, by which decrees, for enforcing payment of sums of money, are enforced.

Amount of the fine, and how to be recovered. Proprietors of such land not to be subject to any fine, except in certain cases specified.

The proprietor of such lands shall not be subject to any fine on account of such salt-works, unless it shall be proved that he was acquainted with their establishment, and did not give information thereof to the magistrate, or to any of the officers of Government, empowered to attach contraband salt, or to any darogah of police; in which case (besides the fine to be levied from the farmer or officer holding the lands khas,) such proprietor also shall be liable to the fine specified in Clause First of this section, in the same manner, as if he had held the management of his own lands."

Fine in such cases.

Third. "Where the salt-works, of the description specified in Clause First of this section, shall be proved to exist, or to have been established subsequently to the 31st of August next, on lands held exempt from the payment of revenue to Government, the holder of the grant of such land shall, on proof of the fact, be liable to a fine of five thousand Sicca Rupees; and the amount of the fine shall be recovered in the same manner as the fines from proprietors of land, as directed in Clause First of this section."

Holders of grants of land, exempt from the payment of revenue, to be liable to a fine under the circumstances stated in Clause First of this section.

Amount of the fine, and how to be recovered.

Fourth. "If salt-works of the description specified in Clause First of this section shall be proved to exist, or to have been established subsequently to the 31st of August next, on the lands of any proprietor of lands, under the charge of the court of wards, the manager of such lands, when such salt-works existed, shall be liable to a fine of five thousand Sicca Rupees; and the fine shall be levied by the process prescribed for enforcing decrees for sums of money."

The manager of lands under charge of the court of wards, to be liable to a fine under the circumstances stated in Clause First of this section.

Amount of the fine, and how to be levied.

Fifth. "One-half of the amount of the fines, which may be levied under this section, shall be paid to the person or persons who shall have furnished the information of the existence or the estab-

Fines levied under this section, how to be distributed.

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blishment of the salt-works. When the information shall be furnished by two or more persons, the Board of Trade shall distribute the fine among such persons, in the proportions which their respective services may appear to that Board to merit. The remaining half shall be paid to the salt agent, superintendent of the salt chokey, commercial resident, or agent, or collector of revenue or customs, by whom the information shall have been received and conveyed to the Board of Trade. In cases in which there shall be no informer, the officers abovementioned, by whom the information shall be conveyed to the Board of Trade, shall, in like manner, be entitled to half of the amount of the said fine." *Sixth.* "The judge of the court, to which it may belong to execute the decrees adjudging fines under this section, shall, previously to carrying the decree into execution, transmit a copy thereof to the Governor General in Council; and shall not execute the decree without receiving his orders for that purpose. It shall be competent to the Governor General in Council, where the fine adjudged is to be levied by the sale of land, to order that the whole or any part of the fine be received in money, and to countermand the sale of such part of the land of the offender, as may be equivalent to the proportion of the fine ordered to be received in money, or to remit the whole or any part of such fine, according as he may judge proper, on a consideration of the circumstances of the case"* 8. *First.* "Salt shall not be transported within the provinces of Bengal, Behar, or the part of Orissa, subject to the dominion of the Company, by land or by water, without a rowannah or char chitty from the proper officer. Salt attempted to be transported within the limits of the said provinces by land or by water, without a rowannah or char chitty from the proper officer, shall be liable to seizure and confiscation." *Second.* "The following description of a rowannah, and of a char chitty, is here inserted for general information:

Judge of the court how to proceed previously to carrying decrees, adjudging fines under this section, into execution.

A discretionary power vested in the Governor General in Council, to remit the whole or any part of such fines.

Section 8. Salt transported within the provinces, without a rowannah or char chitty, liable to confiscation.

Description of a rowannah.

* In the case of a fine imposed by the judge of zillah Tipperah, under Section 7, Regulation 6, 1801, the Governor General in Council informed the court of Sudder Dewanny Adawlut, on the 7th February 1805, that the terms of this clause were not meant to preclude a regular appeal.

"A rowannah should have affixed to it the seal of the salt office, and the signature of the Secretary to the Board of Trade in the Salt Department. The rowannah should also bear the endorsements of the officers of the several chokies, by which the salt may have been passed; and should specify the quantity of salt intended to be transported under it, the place from whence the salt is deliverable, the mode of conveyance, and the place to which the salt is to be transported. A rowannah is current for only one year from its date." "A char chitty should have affixed to it the signature of the darogah or moherer of the salt chokey from whence it was issued; and should specify the quantity of salt to be transported under it; which quantity must be less than one hundred maunds, of eighty-two sicca weight; also the time for which it is current, which is never to exceed six months. The char chitties should further specify the number of the rowannah from which the salt is written off, and the place to which the salt is to be transported." *Third.* "On the arrival of salt at a salt chokey, the person in charge of the salt shall produce the rowannah, or char chitty, to the darogah of the chokey; who shall immediately proceed to ascertain, whether the quantity of salt corresponds with that stated in the rowannah or char chitty; and if the quantity of salt should be found to correspond with the quantity stated in the rowannah or char chitty, he shall certify the same on the back thereof, with the date of the arrival and of the departure of the salt." 9. "*First.* If any person shall attempt to transport, within the limits specified in the preceding section, by land or by water, under a rowannah, or char chitty, a greater quantity of salt than shall be specified in the rowannah or char chitty, the excess so attempted to be transported, as well as the quantity specified in the rowannah or char chitty, shall be liable to seizure and confiscation." *Second.* "All persons in charge of salt are required to keep their rowannahs, or char chitties, with the salt; and it is accordingly hereby declared, that if the owner, or person in charge of salt which shall have been attached, shall assert that he is in possession of a proper rowannah, or char chitty

Description of a char chitty.

On the arrival of salt at a salt chokey, the darogah how to proceed.

Section 9. Salt attempted to be transported under a rowannah or char chitty exceeding in quantity the quantity stated in the rowannah or char chitty, liable to confiscation.

Salt for which a rowannah or char chitty cannot be immediately produced, liable to confiscation.

chitty, which he cannot immediately produce, such assertion shall not be regarded, and the salt shall become liable to confiscation."

Section 10. Boats, cattle, and carriages, on which salt illegally manufactured, imported, or transported, shall be laden, liable to confiscation and sale. Proceeds of such boats, cattle and carriages, how to be disposed of.

10. "The boats, the bullocks, or other cattle, and the carriages, on which salt manufactured, transported, or imported, in disobedience to the rules contained in this regulation, may be laden, shall be liable to confiscation and sale, in the same manner as the salt; and the proceeds of the sale of such boats, cattle, or carriages, shall be paid to the parties concerned in the attachment of the salt, in the same proportions and under the same rules and restrictions, as the rewards to which the said parties shall have respectively become entitled, on account of the salt confiscated."

Section 11. Magistrates and all the officers of police, collectors of the land revenue and of the customs, commercial residents and agents, to assist in the suppression of the illegal manufacture, importation, transportation, and sale of salt.

11. *First.* "Whereas the Governor General in Council has deemed it to be necessary, with a view to the more effectually putting a stop to the illegal manufacture, importation, transportation, and sale of salt, to render it the duty of the magistrates, and all the officers of police, and of all collectors of the land revenue and of the customs, and of all commercial residents and agents, to assist in the suppression of the said illicit practices, as far as they shall be found to prevail within the limits of their respective jurisdictions or districts; and also to appoint officers denominated superintendents of the salt chokies; and to invest the said officers, subject to the orders of the Board of Trade in the Salt Department, with authority and control over certain of the said chokies; the following rules are accordingly enacted."* *Second.* "All officers of

Superintendents of salt chokies appointed.

Rules in consequence. All officers of police to com-

* It being judged advisable, with a view to prevent unnecessary interruption to the salt trade in the interior of the country, after the salt has been transported without the line of the salt chokies, that the powers specified in the first seven clauses of this section should be exercised by such only of the public officers therein mentioned, as might be vested with special authority for that purpose, by order of the Governor General in Council, the following rule, in qualification of the above clauses, was enacted by Section 2, Regulation 12, 1801. "It is hereby declared, that the power of seizing salt under Clauses First, Second, Third, Fourth, Fifth, Sixth, and Seventh, Sections 11, Regulation 6, 1801, without an application for that purpose from any of the officers attached to the Salt Department, shall be exercised only by such magistrates, collectors of revenue and of customs, commercial residents and agents, and officers of police, as shall from time to time be vested, by order of the Governor General in Council, with a special authority for making such seizures; but this rule is not to be considered to prohibit any magistrate, collector of revenue or of customs, commercial resident or agent, from seizing or assisting

ply with applications for assistance in the seizure of illicit salt.

of police shall comply with such applications as may be made to them by any salt agent, or superintendent of a salt chokey, by the officers attached to the Salt Department, or by any commercial resident or agent, or collector of revenue or customs, for assistance in the seizure of salt illegally imported, manufactured, sold or transported." *Third.* "If any officer of police shall receive information of any salt not made in the Company's provinces of Bengal, Behar, or the part of Orissa, subject to the dominion of the Company, having been illegally imported into the said territories; or of salt of any description being transported without the proper rowannahs or char chitties; or of any salt being manufactured on account of individuals, by molungees, or other persons, at the kalaries or salt-works established on account of the Company; or of any kalaries or salt-works established by individuals, for the purpose of manufacturing salt on their own account, or that of any other person; such police officer shall transmit immediate notice thereof to the nearest officer in the Salt Department, empowered to attach contraband salt, and to the magistrate to whose immediate orders the said police officer shall be subject. The police officers shall confine themselves to sending the information aforesaid to the nearest officer in the Salt Department, and to the magistrate; and to assisting in the seizure of the salt, either under the orders of the magistrates, or on application from the officers of the Salt Department; and shall not seize or detain any salt in the first instance, of their own authority, excepting when salt shall be unaccompanied by a proper rowannah or char chitty; in which case, and in no other, the police officers are empowered, of their own authority, to detain salt; sending immediate notice of the detention of the salt to the ma-

Officers of police, in cases of information of illicit salt or illicit salt works, to give immediate notice to the nearest officer in the Salt Department, and to the magistrate to whose orders he may be subject.

Police officers to confine themselves to sending information and assisting in the seizure of salt.

Exceptions

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sitting in the seizure, under the aforesaid clauses, of salt supposed to be illegally manufactured, sold, imported or transported; on application being preferred to him for making such seizure, by an officer of the Salt Department. The Board of Trade are to state to the Governor General in Council what magistrates, collectors of revenue or of customs, commercial residents or agents, or officers of police, the Board may deem it adviseable to have invested with the power of seizing salt, under the clauses aforesaid, without any application for making such seizure being preferred by the officers of the Salt Department."

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gistrate, and to the officer in charge of the nearest salt chokey. An officer of police seizing or detaining salt of his own authority, excepting in the case authorized in this clause, shall be liable to be dismissed from his office; and to be prosecuted for damages in the Dewanny Adawlut, by the owner or the holder of the salt." *Fourth.* "Police officers shall be entitled to a reward of twenty-five per cent on the value of all salt confiscated in consequence of information furnished by them, subject, however, (in cases in which the seizure shall have been made by two or more officers,) to the discretionary power vested in the Board of Trade, to distribute the reward among the persons concerned in the seizure, according as their conduct respectively shall appear to merit. The value of the salt confiscated shall be estimated agreeably to the price at which salt of the same description shall have been sold at the last sale, antecedent to the seizure." *Fifth.* "Magistrates are authorised and required to direct the seizure of salt which they may have sufficient grounds to believe to have been illegally manufactured, imported, sold or transported; and which there shall appear to them reason to apprehend will be conveyed away, before notice of such salt can be given to the officers of the Salt Department, so that the same may be attached by those officers. In all such cases, information of the circumstances attending the seizure shall be transmitted with all practicable dispatch by the magistrates, to the Board of Trade." *Sixth.* "The magistrates shall cause to be communicated (in the manner which shall appear to them most convenient,) to the Board of Trade, the particulars of all information received from the police officers, and also of all applications made to those officers, by the officers in the Salt Department, or by any officers empowered to attach salt, for assistance in the seizure of salt." *Seventh.* "The powers and authorities vested in magistrates by the preceding clauses of this section, are in like manner vested in all collectors of the land revenue and of the customs, and also in all commercial residents and agents; but the officers of such collectors, commercial residents and agents, are prohibited, under pain of dismission from office,

Punishment for police officers disobeying the orders contained in this section. Reward to which police officers shall be entitled on salt confiscated, in consequence of information furnished by them. Discretionary power to the Board of Trade in distributing the reward.

Value of the salt how to be estimated.

Magistrates authorized to direct the seizure of salt in certain cases.

Information in all such cases to be transmitted to the Board of Trade. Further information to be transmitted to the Board of Trade by the magistrate.

The powers vested in magistrates by the preceding clauses in this section, are in like manner vested in the collectors of the land revenue and of the customs, commercial residents and agents, but

their officers prohibited from detaining or attaching illicit salt, except by special authority.

office, and of prosecution for damages in the courts of judicature, from detaining or attaching any salt supposed to be illegally manufactured, imported, sold or transported, excepting by the special authority of the collector, resident, or agent, by whom they may be employed. Such officers are to confine themselves to sending information of salt liable to seizure, or of salt-works established for the illicit manufacture of salt on account of individuals, either to their immediate superior, or to the officers of the Salt Department, for which service they shall receive the same reward as is granted to persons giving information of such salt, or salt-works, by this regulation." *Eighth.* "It shall be competent to the Board of Trade, with the sanction of the Governor General in Council, to commit the charge of any salt chokies to any of the commercial residents or agents, or collectors of customs; and to direct the officers appointed to the immediate superintendence of such salt chokies (whether such officers shall be covenanted civil servants of the Company, Europeans not in the service of the Company, or native officers,) to obey and act under the orders of such commercial residents, or agents, or collectors of customs. Collectors of revenue or of customs, and commercial residents and agents, shall be entitled to the same proportion of the value of confiscated salt attached by their orders, or in consequence of information conveyed to them, and transmitted by them to the officers of the Salt Department, as is allowed to salt agents on confiscated salt seized under their authority." *Ninth.* "Every commercial resident or agent, or collector of customs, to whom the superintendence of a salt chokey shall be committed under this regulation, and every person, being a covenanted civil servant of the Company, appointed to the immediate charge of any salt chokies, shall, previously to entering upon the execution of the duties of their office, take and subscribe the following oath before the Governor General in Council, or any person whom he shall appoint to administer it.

The Board of Trade empowered with the sanction of the Governor General in Council, to commit the charge of any of the salt chokies to any of the commercial residents or agents, or collectors of customs.

Reward to which collectors of revenue and customs, and commercial residents and agents, shall be entitled.

Commercial residents or agent, or collectors, to whom the immediate charge of salt chokies shall be committed, shall take an oath.

"I, A. B. ——— appointed ———, do solemnly swear that I will deligently and faithfully execute the duties of the office

Form of the oath.

of

of ——; that I will not directly or indirectly, by myself or others, be concerned in any traffick in salt; that I will not, directly or indirectly, take or receive, or knowingly allow any other person to take or receive, any fee, present, gratuity, or advantage whatever, on account of any matter relating to the duties of my office; and that I will not, directly or indirectly, derive any advantage or emolument from my station, excepting such as now is, or may be hereafter, authorized by the Governor General in Council.

So help me God."

Tenth. "All salt, which may be seized under this section, shall be delivered over, as early as may be practicable, to the officers of the Salt Department, or to such person as the Board of Trade may direct." 12. "The salt agents and their officers, the officers of the salt chokies, and officers in the Salt Department, acting under the immediate orders of the Board of Trade, on receiving information of any salt having been illegally manufactured, imported, sold, or transported, are empowered to attach the same, without transmitting previous notice to the judge or magistrate of the district; and if such agents or officers shall deem it to be necessary, they may apply to the magistrate, or to any of the officers of police, to assist in the seizure of the salt." 13. "All subordinate officers of Government attached to the Salt Department, who shall be concerned in the attachment of salt, under the orders of their immediate superiors, or to whom information shall be given respecting salt of the description specified in the preceding section, and who shall, in consequence, be immediately concerned in the attachment of the salt, shall be entitled to a reward of twenty-five per cent on the value of such salt, to be estimated according to the price at which salt of the same description shall have been sold at the last public sale, preceding the seizure; a discretionary power, however, being reserved to the Board of Trade (where the seizure shall have been made by two or more officers,) to distribute the reward among the officers concerned in the seizure, as their conduct respectively may appear

Salt seized under this section, to whom to be delivered.

Section 12. Certain officers in the Salt Department, empowered to attach salt without previous notice to the judge or magistrate of the district, and also to apply for assistance to the officers of police.

Section 13. Reward to which subordinate officers of Government, attached to the Salt Department, shall be entitled in certain cases.

How to be estimated and distributed.

Section 14. Reward to which subordinate officers of Government, serving in the Salt Department, shall be entitled in attachments of salt made by them exclusively.

How to be estimated and distributed.

Section 15. Reward to which salt agents and superintendents of salt chokies, shall be entitled.

How to be estimated.

Section 16. A report of all seizures of salt made by the subordinate officers of Government, to be transmitted without delay to the Board of Trade.

Punishment in cases of omission or unnecessary delay in forwarding the required report.

Section 17. Subordinate officers in the Salt Depart-

pear to merit." 14. "If salt shall be attached exclusively by the subordinate officers of Government, serving in the Salt Department, and not upon information, the officers concerned in making such attachments shall be entitled to a reward of thirty-five per cent on the value of the salt, to be estimated according to the average price at which the salt of the district or division, in which the confiscated salt may be ascertained, or be supposed, to have been manufactured, shall have been sold at the last public sale, preceding the attachment; a discretionary power, however, being reserved to the Board of Trade, in cases in which the attachment shall been made by two or more officers, to distribute the reward in the manner authorized in the preceding section." 15. "The salt agent and the superintendents of the salt chokies shall be entitled to a reward of thirty-five per cent on the value of all salt, which shall be attached and confiscated by their respective orders, or by their respective officers; the value of the salt to be estimated according to the price at which the salt of the division or district, in which the confiscated salt may be ascertained, or be supposed to have been manufactured, shall have been sold at the sale preceding the attachment." 16. "The officers of the salt agents and of the salt chokies, and officers acting under the immediate orders of the Board of Trade, and all police officers, and other subordinate officers whatever, making seizures of salt, shall transmit without delay, and by the most expeditious mode of conveyance, a report of the circumstances of the seizure, to their immediate superiors. If officers seizing salt omit to forward the required report, or shall make any unnecessary delay in forwarding it, they shall be liable, in the event of the salt not being confiscated, to a prosecution in the Dewanny Adawlut, for damages by the proprietor of the salt, and to dismission from office; or in the event of the salt being confiscated, such officers shall be liable to dismission from office, and to forfeit to Government the amount of the reward to which they would have become entitled, in consequence of the confiscation of the salt." 17. "All subordinate officers in the Salt Department are prohibited from removing the attachment

ment from any salt which they may have seized, until they shall have received orders for that purpose from the salt agents, or the superintendents of the salt chokies, or the Board of Trade. Subordinate officers, disobeying the rules contained in this section, shall be dismissed from their office; and shall be subject to a penalty of two hundred and fifty Sicca Rupees, for every one hundred maunds of salt released. The salt agents, or the superintendents of the salt chokies, are empowered to order the release of salt seized by their own officers, or any salt which may have been seized and made over to their officers, by the magistrates, collectors of revenue and customs, and commercial residents and agents, if, on inquiry, such salt agents or superintendents of salt chokies shall be of opinion that the salt is not liable to confiscation; but such agents or superintendents shall invariably report the release of the salt to the Board of Trade, with their reasons for its release. In all cases in which the salt agents, the superintendents of the salt chokies or their officers, or any officers acting under the immediate orders of the Board of Trade, shall make seizures of salt, such agents, or superintendents, or officers acting under the orders of the Board of Trade, shall transmit notice of the seizure and of all circumstances relating to it, to the Board of Trade, with all practicable dispatch." 18. "If salt shall have been seized by the officers, or under the orders of any magistrate, or by the orders of any collector; of revenue or customs, or any commercial resident or agent and previously to the delivery of such salt to the officers of the Salt Department, such magistrate, collector, resident or agent, shall be of opinion, that the salt was seized on false or erroneous information, and that the salt is not liable to confiscation; he is hereby empowered to release the salt; communicating the circumstances of the seizure and the release of the salt to the Board of Trade, for their information." 19. "All persons, who shall furnish information of salt illegally imported, manufactured, sold or transported, within the provinces of Bengal, Behar, or the part of Orissa, subject to the dominion of the Company, shall, provided the salt be attached and confiscated in consequence of such information, be entitled to a reward

ment, prohibited from removing attachments once made, without special authority. Punishment for disobeying the rules contained in this section.

Salt agents and superintendents of salt chokies empowered to release salt, if they shall deem it not to be liable to confiscation. Such release with the reasons for it to be invariably reported to the Board of Trade.

Seizures of salt by certain officers in the Salt Department to be reported to the Board of Trade.

Section 18. Magistrates, collectors, commercial residents, and agents, empowered to release salt in certain cases, but are to report the circumstance to the Board of Trade.

Section 19. Reward to to which informers shall be entitled; and how to be estimated.

ward of twenty-five per cent on the value of the salt, to be estimated by the average price at which the salt of the district, where the seizure may be made, shall have sold at the last public sale, preceding the attachment." 20. "All confiscations shall be made and adjudged by the Board of Trade; and all persons who shall become entitled to established rewards, in consequence of such confiscations, shall receive the said rewards from the Board of Trade; or the amount shall be paid in such manner as the Board may direct, immediately on the confiscation of the salt being adjudged." 21. "On a seizure of salt being reported to the Board of Trade, they shall take the circumstances of the case into consideration without delay. If the Board shall determine that the salt is not liable to confiscation, they shall order the salt to be released; and the officer by whose authority the seizure shall have been made, (such officer not being a magistrate,) shall be liable to be sued for damages in the Dewanny Adawlut by the owner of the salt, and shall defend the suit at his own risk and expence. In such cases, however, the Board of Trade are empowered to indemnify the person by whose authority the seizure shall have been made for the consequence of the suit, should the Board, on consideration of the circumstances, deem such person entitled to indemnification; or the Board may order the suit to be defended on the part of Government; or grant such indemnification as they may deem equitable, to the owners of the salt. In all such cases the Board of Trade shall report to the Governor General in Council the measures which they may have adopted, with the reasons for their adoption." 22. "If the Board of Trade, on a seizure of salt being reported to them, shall be of opinion, that it is liable to confiscation, they shall adjudge the salt to be confiscated, with the boats, cattle or carriages on which the salt shall have been laden; and cause the whole to be sold as soon as they may deem it advisable. Any person dissatisfied with the decision of the Board of Trade, adjudging salt to be confiscated, shall be at liberty to prosecute Government in the court of Dewanny Adawlut, of the zillah or city in which the seizure may have been made; and the judge of

Section 20. All confiscations shall be made and adjudged by the Board of Trade, and the rewards to be paid in consequence, shall be paid by or under the orders of that Board.

Section 21. Board of Trade how to proceed when a seizure of salt shall be reported to them. Officers making seizures of salt not liable to confiscation, how to be punished.

Discretionary powers vested in such cases in the Board of Trade.

Section 22. The Board of Trade how to proceed in cases of seizures of salt deemed liable to confiscation.

Remedy for persons dissatisfied with the decision of the Board of Trade.

of the court shall proceed as directed in the cases specified in Section 11, Regulation 3, 1763." "The reward to be granted under this regulation on coast salt, or any other species of foreign salt, which may be confiscated, shall be calculated on the price at which salt of the same description shall have been sold at the last sale, preceding the seizure, or if no salt of that description shall have been sold at such sale, the Board of Trade shall value the salt at such price as they may deem equitable, and the reward shall be calculated on such valutation." 24. "Any person engaging in any clandestine or fraudulent dealings, with respect to rowannahs or char chitties, for the purpose of smuggling salt, either with the person in whose name the rowannah or char chitty shall have been taken out, or with any other person or persons; the person or persons cencerned in such transactions, shall be subject respectively to a fine of two hundred and fifty Sicca Rupees on every hundred maunds of salt, specified in the said rowannah or char chitty." 25. *First.* "All boats employed in transporting, from the Company's golahs, salt sold at the Company's sales, shall be registered by the salt agent of the division to which the boat may proceed to receive salt." *Second.* "Salt not proceeding on the regular route to the place of destination specified in the rowannah or char chitty, shall be liable to confiscation, although accompanied by a rowannah or char chitty." 26. "The proprietors of salt, which shall be confiscated in consequence of the quantity of salt exceeding the quantity specified in the rowannah or char chitty, accompanying the salt, or in consequence of any other breach of this regulation, subjecting the salt to confiscation, shall be liable to a fine at the rate of Sicca Rupees five hundred for every hundred maunds of salt so confiscated." 27. "Darogahs of salt chokies, previously to entering upon the execution of the duties of their office, shall furnish two securities, each in the sum of one thousand Sicca Rupees, for their appearance and for the due execution of such duties." 28. "Darogahs of salt chokies, who may be convicted of conniving at smuggling, shall, besides removal from office and forfeiture of the amount

Section 23. Reward granted on confiscations of foreign salt, how to be calculated.

Section 24. Persons convicted of clandestine or fraudulent dealings with respect to rowannahs or char chitties, to be liable to a fine.

Amount of the fine.

Section 25. Boats employed in transporting salt from the Company's golahs, to be registered by the salt agent of the division to which they may proceed.

Salt not proceeding on the regular route to the place of destination, liable to confiscation.

Section 26. Proprietors of salt confiscated in consequence of a breach of this regulation, liable to a fine.

Rate of the fine.

Section 27. Darogahs of salt chokies to give security.

Amount of the Security.

Section 28. Darogahs of salt chokies convicted of conniving at smuggling, li-

able to a fine, besides removal from office and forfeiture of security.

Rate of the fine.

amount of their securities, be liable to a fine of Sicca Rupees two hundred and fifty on every hundred maunds of salt which shall have passed the chokies, of which they shall respectively be in charge, and which shall be attached and confiscated.

Darogahs absent from their stations without leave liable to the same penalties as if they were present.

Darogahs absent from their stations with leave shall be responsible, under the penalties prescribed in this section, for any connivance at smuggling which may be proved against the person to whom the charge of chokies may be left by the said darogahs."

Section 29. Persons making advances to molungees, officers attached to the Salt Department, or other persons, for certain purposes, liable to a fine.

Rate of the fine.

29. "Dealers in salt, pykars or others, making advances to molungees, officers attached to the Salt Department, or other persons, for the illicit manufacture or delivery of salt, or purchasing or obtaining salt from such molungees, officers or persons, in an illicit manner, shall, on conviction, be liable to a fine of five Sicca Rupees for every maund of such salt, for which advances shall have been so purchased or obtained, and the salt, if seized, shall be liable to confiscation."

Section 30. Officers or servants in the Salt Department in certain cases liable to fine and imprisonment.

Rate of the fine.

Term for which they may be imprisoned.

Informers to be entitled to half the amount of the fine.

30. "If any officers or servants employed in the Salt Department shall, under any pretence, or by any means whatever, directly or indirectly, cause salt to be obtained from the manufacturers, or other persons employed in the Salt Department, either by over-weight or in any other illegal manner; or shall cause salt to be manufactured for their own benefit, or the benefit of any other person; the salt so obtained, or manufactured, shall be liable to confiscation; and the officer, or servant, so obtaining the salt, or causing the salt to be so manufactured, shall be liable to a fine, to be calculated at the rate of Sicca Rupees five hundred for every one hundred maunds of salt so obtained or manufactured; and shall be further liable to imprisonment, for any term that the court may judge proper, not exceeding twelve months. The proportion of half of the amount of any fine, so recovered, shall be paid to the informer, (should there be an informer,) exclusively of any other reward to which he may become entitled on the salt confiscated, in consequence of the information which he shall have furnished,"

Section 31. Darogahs and other officers of salt chokies prohibited from taking or receiv-

31. *First.* "Darogahs, and other officers of salt chokies, are prohibited from taking or receiving any tullubanah, gratuity, perquisite or allowance, either in money or effects, under any pretence whatever, from

from any salt merchant, or any other person employed or concerned in the salt trade, or the transportation of salt; and if any of the above description of persons shall be convicted of acting in disobedience to this prohibition, he shall be liable to the payment of a fine equal to four times the amount so taken or received, and shall be further liable to imprisonment for any time that the court may judge proper, not exceeding twelve months; and shall also be dismissed from his office." *Second.* "The fines which may be levied under the foregoing clause shall be disposed of as the Board of Trade may think fit." *Third.* "In cases in which the darogah of a salt chokey shall be declared liable to the penalty specified in Section 28, the moherer of the chokey shall be considered to have connived with the darogah, and shall be liable to a penalty of eight annas sicca for every maund of salt so illicitly manufactured or transported; unless it shall appear that such moherer was absent with leave from the station at the time when such offence was committed." 32. "All fines enacted by this regulation shall be sued for under the general regulations for the administration of justice, by order of the Board of Trade, in the zillah or city court of Dewanny Adawlut in which the cause may be cognizable; and all such causes shall be heard in preference to any suits instituted by individuals depending in the said courts."

ing any tullobanah, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatever.

If convicted of acting in disobedience to this prohibition, liable to a fine, imprisonment, and dismissal from office.

Fines levied under the foregoing clause how to be disposed of.

Moherers of salt chokies liable to a fine, on conviction of darogahs under Section 28.

Rate of the fines.

Section 32. How fines enacted under this regulation, shall be sued for.

Regulation 9, 1806, *for giving further effect to the rules prescribed by Regulation* 6, 1801, contains the following additional provisions for that purpose; as well as to relieve the salt merchants from a possible injurious operation of the Second Clause of Section 9, Regulation 6, 1801; it often happening that many boats are laden with salt, covered by one rowannah; in which case, if by any accident part of the boats were separated from the rest, those with which the rowannah had not been kept were liable to confiscation, under a rigid enforcement of the above clause. §. 2. *First.* "Salt shall not be transported within the limits of the salt chokies, by land or by water, without a chellaun

Additional provisions in Regulation 9, 1806.

Section 2. Salt not to be transported.

Without a chellaun.

Salt agents to furnish it.

The chellaun to be signed by the agent or other European officer.

Particulars to be specified in the chellaun.

Certificate at the foot of the chellaun.

Section 3. The chellauns to accompany the boats or bullocks laden with the salt to be produced to the officers of Government.

chellaun from the proper officer accompanying it, in addition to the rowannah or char chitty, ordered and described in Section 8, Regulation 6, 1801." *Second.* "The agents of the different salt divisions, and other officers in charge of the Honorable Company's salt, shall furnish the proprietors, or their agents, of salt that shall be cleared out from any of the golah stations under their respective charge, with a chellaun for every boat, vessel, or karroo, or division of bullocks, that may be laden with salt." *Third.* "The chellaun, in all practicable cases, shall be signed by the agent, or other European officer, in charge of the golahs; as well as by the darogahs or other head native officer of the golah station, at which the salt shall be delivered. The chellaun shall specify the quantity of salt laden on the boat, vessel, or karroo of bullocks; the date of the sale; and number of the lot, in part or in full of which the salt is delivered; the name of the original purchaser at the sale, and of the present proprietor of the salt; the number of the rowannah by which the salt is covered, and the total quantity of salt covered by the same; the name of the gomastah who shall receive the salt; of the proprietor of the boat, vessel, or karroo of bullocks, on which the salt shall be laden; and of the manjie, serang, or sirdar, in charge of such boat, vessel, or karroo; the description, burthen, and number of oars of the boat or vessel; and the number of bullocks in the karroo; also the place of destination of the salt." *Fourth.* "The proprietor of the salt, or the person receiving the same from the golah stations on his account, shall certify, at the foot of the chellaun, that it has been duly and correctly drawn up." §. 3. "All persons in charge of salt are required to keep their chellauns constantly on board of their boats, or vessels; or with the bullocks on which the salt described on the chellauns may be laden; to produce the chellauns at a moment's warning to any officer of Government, duly authorized to attach illicit salt, who may demand a sight of them; and to surrender the chellauns to the darogah of the last chokey which the salt may have to pass on its route to the place of destination.

And

And it is hereby declared, that any salt laden on any boat, vessel, or karroo, of bulloks, which may be attached, for which a proper chellaun shall not be instantly produced, or the chellaun accompanying which shall not correspond in every particular with the salt which it may accompany, and also with the rowannah covering the salt, (which latter document is required to be produced twenty-four hours after the attachment of the salt, unless the most satisfactory reasons for any further delay in the production of it be assigned,) shall be liable to confiscation." §. 4. *First.* "It is understood to be a common practice with the darogahs of the salt chokies, instead of personally examining and cooting salt with the assistance of their moherrers, to depute peons, or, other inferior officers of the chokies, to execute that duty; and to require the merchants, having rowannahs to be endorsed, to bring them to their houses for that purpose." *Second.* "It is hereby declared, that the chellauns shall on no account be demanded, or on any pretence whatever be removed from on board of the boats or vessels containing the salt described in the chellauns; but it shall be the duty of the darogah, or moherer, of each chokey, personally to examine the salt and chellaun on board of every boat, or vessel, coming to his station; and having ascertained that the salt and boats, or vessels, correspond with the description given of them in the respective chellauns, to certify the same, together with the date of such examination, on the back of the chellauns." §. 5. "Any person engaging in clandestine or fraudulent dealings, with respect to chellauns, shall be liable to the penalty prescribed by Section 29, Regulation 6, 1801, for persons engaged in fraudulent dealings with respect to rowannahs and char chitties."

Cases in which salt is liable to confiscation.

Section 4. Rule respecting the examination of salt boats and chellauns.

Section 5. Penalty prescribed in Section 29, Regulation 6, 1801, applicable to persons engaging in issuing clandestine or fraudulent chellauns.

"THE Governor General in Council having received information that a practice had, for some time, prevailed in the provinces of Bengal, Behar, Orissa, and Benares, of adulterating common or alimentary salt, by mixing it with a substance, called *kharee-noon*, (found on analysis to be Glauber's salt,) as well as with other

Rules contained in Regulation 4, 1800, (and Regulation 48, 1803.) to prevent adulteration of salt by mixture of *kharee-noon*, and other substances.

ther substances, such as *natron*, or native fossil alkali, and the vegetable alkali, or potash; and this practice being considered not only a gross fraud, injurious to the fair trader in salt; but, if carried to any extent, of the most pernicious tendency to the community; as the salt so adulterated must be very prejudicial to the health of those who use it; the following rules, to be in force throughout the above provinces, were enacted by Regulation 4, 1800." §. 2. "Any salt adulterated in the manner described, which may be found in any golah or shop, or in any place whatsoever, shall be confiscated and destroyed; and any salt merchant, or other person, selling salt, wholesale or retail, who shall so adulterate or corrupt it, or shall sell any salt so adulterated or corrupted, shall be liable to the payment of a fine, calculated at the rate of ten Sicca Rupees per maund, of eighty-two sicca weight to the seer, upon the quantity which may be found so adulterated or corrupted; and the said fine shall be recoverable in the manner hereafter prescribed." §. 3. "Salt adulterated, in the manner above stated, shall be liable to be seized by the officers of the police, as well as by the officers of the Salt Department; who, immediately on making any attachment or seizure, are required to report the circumstance to the judge, within whose jurisdiction the attachment may have been made. The judge, on receiving such report, shall without delay institute a summary enquiry into the circumstances of the case; and if it shall appear to him that the salt is liable to confiscation, he shall proceed to confiscate it accordingly; and to levy the prescribed fine, by the same process as is authorized to execute a decree of court."* §. 4. "Provided, always, that if the proprietor of such confiscated salt, being dissatisfied with the order of confiscation, shall im-

Regulation 4, 1800, Section 2. Adulterated salt liable to confiscation, and the persons adulterating, or selling it, to a fine.

Fine how to be calculated, and

How recoverable.

Section 3. Salt so adulterated liable to seizure by the police, and salt officers, who are to report it to the judge.

Judge how to proceed on receiving such report.

Section 4. Proprietor of such confiscated salt allowed one

* To obviate delay in the inquiry directed by this section, it is further provided in Section 2, Regulation 48, 1803, that "in instituting the summary enquiry directed by Section 3, Regulation 4, 1800, to be made in cases of attachment of salt alleged to be adulterated with *kharee-noon*, the judge shall convene a sufficient number of respectable merchants, or dealers in salt, to examine the attached salt; and shall ground his decision upon the report of such merchants, or dealers; without causing the salt to be examined by a chemical process, for the purpose of ascertaining, whether the salt be adulterated, or not, with "kharee-noon."

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mediately give responsible security for the amount of the penalty; and further, within a period of one month, shall institute a regular suit in the Dewanny Adawlut, against the officer who may have seized the salt, for damages under the following section; in such case, the judge shall suspend the execution of his order, and stay all further proceedings. But if, at the expiration of one month from the date of the order of confiscation, no suit shall have been instituted by the proprietor of the salt, the judge is, without further delay, to levy the penalty from his surety, and otherwise to carry the order of confiscation into full effect; and such order shall be deemed final, and no appeal from it shall be admitted."* §. 5. "In all cases in which it may appear that an attachment, or seizure, has been improperly made by an officer of Government, the proprietor of the salt shall be entitled to recover full damages for all the loss and expense to which he may have been subjected in consequence, by a regular suit in the Dewanny Adawlut." §. 6. "But should it appear to the court that there were no just grounds for objecting to the order of confiscation, and that the suit has been instituted merely with a view to create delay, or for vexatious purposes, it shall be at the option of the court to impose a fine of fifteen Rupees per maund, instead of ten Rupees, as prescribed in Section 2; the decision in such case, as well as in all cases in which a regular suit may be instituted, being subject to the existing rules for appeals to the superior courts." §. 7. "In the event of a regular suit being instituted for the purpose of setting aside the order of confiscation, the salt shall be held under attachment by the court, until a final decision may be passed in

month to institute a regular suit in the Dewanny Adawlut on giving security; and

Execution of order to be suspended in such case.

An appeal not admitted after the expiration of one month.

Section 5. Proprietor may recover damages when a seizure has been improperly made.

Section 6. Further fine to be levied, if the suit has been instituted to create delay, &c.

Decision in such case, subject to the existing rules for appeals.

Section 7. Salt to be held under attachment, until a final decision.

* It is added, in Section 3, Regulation 48, 1803, that "in all cases where any proprietor of salt confiscated for being adulterated with *kharee-noon* may be unable to give the security required by Section 4, Regulation 4, 1800, for the amount of the penalty; the judge, upon his being satisfied of the inability of the party to give the security, is hereby empowered to dispense with security; taking from the party bail for his appearance only, to abide the issue of the suit; or, in the event of the suit not being instituted within the period prescribed by Section 4, Regulation 4, 1800, to answer in his own person for the amount of the penalty; and in the mean time, the judge shall keep the salt under attachment."

the

Section 8. What share of the fine Government's officers are to receive, when making the seizure.

the cause." §. 8. "When attachments, or seizures of salt, adulterated as abovementioned, shall be made wholly by the officers of Government, and not upon any information furnished them, they will be entitled to receive one moiety of the fine, which may be levied from the offender, according to the rule laid down in Section 2; and the other moiety is to be carried to the account of Government."

Section 9. Share to informer.

9. "If any other person or persons shall give information of salt adulterated, as abovementioned, to an officer of Government, and the salt shall be seized in consequence of such information, he or they will be entitled to receive one-quarter of the fine which may be levied as above prescribed; and the officer, who may have made the seizure, will be entitled to receive also one-quarter of the amount; the remaining moiety is to be carried to the account of Government."

Section 10. Bullocks and other cattle, or carriages, or boats, conveying adulterated salt, liable to sale.

§. 10. "The bullocks and other cattle employed in the carriage of salt, adulterated as abovementioned, as well as the carriages, or boats, on which such salt shall be loaded, or transported, shall be liable to be kept under attachment, until the prescribed fine shall be paid; and shall also be liable to be sold, to make good the amount of the fine, at the discretion of the judge."

Provisions in Regulation 52, 1795, for a restricted importation of coast salt.

In concluding the rules in force relative to the salt of the lower provinces, the provisions of Regulation 52, 1795, "for licensing the importation of salt into the port of Calcutta, on ships built, and fitted out within the provinces of Bengal, or Behar, or that part of Orissa which is under the dominion of the Company, and being the property of British subjects, or of natives residing within the said provinces, and subject to the Company's Government," may be stated in this place, with the preamble to that regulation. "The Governor General in Council being of opinion that the importation of coast salt into Bengal may be allowed, under particular restrictions, so as to obviate, in a great degree, the unfavorable operation of the existing prohibition to its importation, on certain branches of the commerce and industry of both countries, without, at the same time, affecting the revenue

venue derived by the Company from reserving to themselves the exclusive privilege of manufacturing salt in Bengal; the following rules have been enacted." 2. "License will be given for the importation of salt into the port of Calcutta, on ships built and fitted out within the provinces of Bengal or Behar, or the portion of Orissa, under the dominion of the Company, and being the property of any British subjects or natives, residing in either of the said provinces under the Company's Government, subject to the following rules and conditions." 3. "All persons desirous of availing themselves of the privilege granted in the preceding section must apply to the secretary to the Board of Trade in the Salt Department, for permits; and must specify in their application the following particulars.

Section 2. On what ships salt may be imported.

Section 3. Application for permits where to be made, and particulars to be specified.

Name of the ship.

Name or names of the owner or owners, and his, or their, place or places, of residence.

Name of the commander.

By whom, where, and when, the ship was built, and the burthen by carpenter's measurement.

Where bound.

Return when expected.

Quantity of salt to be imported."

4. "The name of the ship shall be painted, in English and Bengalese, upon some conspicuous part of the stern, in letters not less than four inches in length; and, to prevent mistakes, the name in Bengal characters will be furnished on application at the salt office. Should the above injunction, with regard to painting the name on the stern, be neglected, or either the English or the Bengal name be obliterated, concealed, or defaced, at the departure or return of the ship from or into this port, the owner shall be liable to the payment of a penalty of one hundred Sicca Rupees; one-half to go to the informer, and the other half to the Company. The amount of the penalty, if not otherwise made good, shall be stopped from any money which is or

Section 4. Name of ship to be painted on the stern in English and Bengalese.

Penalty for neglect in the above respect.

And how to be levied.

Section 5. Name of ship not to be changed without the permission of the Board of Trade. penalty.

Section 6. Salt where to be delivered, at what price, any how to be paid for.

Permit to be surrendered previous to payment.

Section 7. Salt to be of good merchantable quality, and rules in case of its being objected to.

Section 8. Rules where the deliverers of the salt dispute the validity of objections to its quality.

Section 9. The whole of the salt imported to be delivered to the Company, except five maunds under penalty

may become due to the owner, for salt; and the custom master shall refuse a port-clearance until the penalty be paid, or security be given for the payment thereof." 5. "The name of the ship shall be changed at any time without the permission of the Board of Trade; and in case of any deviation from this rule, the owners of the ship shall be considered as having forfeited all claim to the privilege of importing salt." 6. "The salt shall be delivered on shore, at such place within the limits of the port of Calcutta as the Board of Trade shall direct, at the rate of Sicca Rupees fifty-seven for every hundred maunds; each maund to weigh forty seers, of eighty-two sicca weight to the seer; and shall be paid for at the salt office within ten days after the receipt of the Company's golah keeper, for the salt, shall have been produced there. At the time of producing the receipt, the permit, under which the salt may have been imported, shall be surrendered, in default of which, such payment shall not be made." 7. "The salt shall be of a good merchantable quality; or should any objection be made to it in this respect, the quantity objected to shall be separately sold at the first Company's salt sale, which may take place after the delivery; and the owners of the ship shall make good to the Company the difference between the average selling price of merchantable salt of the same description, and the average selling price of the salt objected to; and payment for the latter shall be delayed until the said difference can be ascertained." 8. "If the deliverers of the said salt shall dispute the validity of the objections made thereto, the same shall be referred for determination to two or more persons, who usually make purchases at the Company's sales; or, if the Board of Trade shall deem it proper so to do, recourse shall be had to an analysis of small quantities, as samples, to be fairly taken from the mass; the analysis to be made by the Board of Trade, or such person as they may nominate." 9. "The whole of the salt which may be imported on the ship shall be delivered to the Company, excepting a reserve, not exceeding five maunds, which may remain on board, provided that it be *bonâ fide* for the use of the mariners, whilst on board; and

and any salt, exceeding the quantity so authorized to be reserved, which may be found on board, shall be confiscated; and the owners of the ship shall be further liable to the payment of a penalty, on such excess, at the rate of ten Sicca Rupees per maund." 10 "When the ship is reported cleared, the Company's officers shall have the privilege of examining the ship, to ascertain whether there be any quantity of salt remaining on board, exceeding that authorized to be reserved. The Company's officers shall have free access to every part of the ship; and be treated with attention and civility on board." 11. "The permit must be kept on board of the ship, in the possession of the master, in order that it may be produced to the pilot, and the salt officers, on the return of the ship to the river, as the authority for the salt being on board. In case of a ship returning without importing salt, the permit must be immediately surrendered at the salt office." 12. "If any circumstance should keep the ship out longer than the time specified in the permit, the Board of Trade, on application from the owners, and on their being satisfied as to the cause of her detention, will allow such extention of the period, as may appear to them reasonable." 13. "A fee of sixteen Sicca Rupees shall be paid at the salt office, on the issuing of each permit. The following shall be the form of the permit."

of confiscation, and the payment of ten Rupees per maund.

Section 10. Company's officers to search the ship, and be civilly treated.

Section 11. Permit to be kept on board by the master, and to be surrendered when no salt is imported.

Section 12. Extension of time specified in permits allowed in particular cases.

Section 13. Fee on permits and form thereof.

Name of vessel in Bengalese.

"This is to certify, that the (description of the vessel) (name) of Calcutta, whereof (master's name) is at present master and (owner's name or owner's names) and place (or places of residence) is (or are) owner (or owners) built by (builder's name) at (place where) in the year (17) burthen (——) tons, now lying in the river Hooghly, bound on a voyage to (insert place or places) and expected to return within (——) months, has permission to import (——) maunds of salt to be delivered on shore upon account of the Honorable Company, at such golahs or places within the limits of the port of Calcutta, as the Board of Trade may appoint."

"This permission to be in force for the above specified voyage

age only, and for the space of ( ) months."

Section 14. Report to be delivered to the pilot on arrival of a ship.

14. "On the arrival of the ship in the river, the master shall deliver to the pilot, in charge of the ship, a report addresssed to the deputy secretary to the Board of Trade, containing the following particulars

The quantity of salt on board of his ship.

At what place or places shipped, and the quantity shipped at each place.

The ship's draft of water.

Section 15. Report to be made also when no salt is imported.

15. "If there shall not be any salt on board, the master shall nevertheless deliver to the pilot a report addressed as above directed, signifying that there is not any salt on board, and stating the ship's draft of water."

Section 16. Pilot to forward such reports to deputy secretary of the Board of Trade.

Penalty for neglect.

Fee payable to the pilot when there is salt on board.

Pilot to certify whether the ship's name be duly painted on the stern.

16. "The pilot shall forward the report to the salt office by the chokey boat; or in case a chokey boat shall not reach the ship, he shall deliver it, on the arrival of the ship at Calcutta, to the master attendant; by whom it must be sent to the salt office. If the pilot shall neglect to transmit a report so delivered to him, he shall be liable to the payment of a fine of five Sicca Rupees for each instance of neglect, to be stopped by the marine paymaster from his pay; and in case of there being salt in the ship, he shall be entitled to a fee of five Sicca Rupees, payable from the salt office, for forwarding the report. The pilot shall certify whether or not the ship's name be duly painted upon the stern."

Section 17. Penalty for master's refusing or neglecting to report, and Mode of enforcing payment.

17. "In the event of the master refusing or neglecting to deliver the required report, he shall be liable to a penalty of one hundred Sicca Rupees; and, until the same shall be paid by the owners, the ship shall not be allowed a new port-clearance."

Section 18. Penalties for false reports and Mode for enforcing payment.

18. "If the report shall signify that there is not any salt on board, and it shall appear afterwards that there was salt on board; or if the report shall specify less than the quantity shipped; the salt, so attempted to be concealed, shall be liable to confiscation; and the master, or owners, shall be liable to a penalty of ten Sicca Rupees per maund on any salt that may be confiscated, or that may be proved to the

satisfaction

satisfaction of the Board of Trade, and the Governor General in Council, or of the Governor General in Council, to have been run or thrown over board; and until such penalty be recovered from the owners, the vessel shall not be allowed a port-clearance for a future voyage." 19. "Any Europeans proved, to the satisfaction of the Governor General in Council, to have been concerned in the illicit importation of salt, will, over and above the penalties already specified, be considered as having forfeited the Company's protection; and if residing in India with the Company's permission, as having broken their covenants with the Company; and liable to be sent to Europe as unlicenced traders."

Section 19. Additional penalties on Europeans concerned in the illicit importation of salt.

The following regulation *for imposing a duty on foreign salt imported by sea into any port or place within the limits of the territories immediately dependant on the Presidency of Fort William*, which was passed on the 9th September 1817, belongs properly to the general head of *Customs;* but having been enacted since the former part of this volume, relative to the customs, was printed, it may be introduced in this place.

Regulation 15, 1817, recently enacted for imposing a duty on foreign salt imported by sea.

"Whereas it has been deemed expedient, with a view to the improvement and security of the public revenue, to impose a duty on foreign salt, imported by sea into any port or place, within the territories immediately dependent on the presidency of Fort William, the Vice President in Council, with the sanction of the Court of Directors of the United Company of Merchants of England trading to the East Indies, and with the approbation of the Board of Commissioners for the affairs of India, has enacted the following rules, to be in force throughout the aforesaid territories, from the period of their promulgation. §. 2. "Foreign salt, that is to say, salt made out of the limits of the territories immediately dependent on the presidency of Fort William, shall, on importation by sea into any port or place within the limits of the said territories, be subject to a duty, at the rate of Sicca Rupees three per maund of forty seers, each seer weighing eighty-two sicca weight." §. 3. "The aforesaid duty shall be paid and levied under the same rules

Preamble.

Section 2. Foreign salt when imported by sea into any port or place within the limits of the territories dependant on the presidency of Fort William, subject to a duty of three Sicca Rupees per maund.

Section 3. Mode of le-

vying the duty abovementioned.

and provisions as are applicable generally to the payment and collection of the duties denominated Government Customs, on goods or merchandize imported by sea; subject, however, to the provision contained in the following section; and any salt imported or landed in breach of the said rules and provisions, shall be forfeited, two-third parts thereof to the said United Company, and one-third part to the person or persons, who shall seize, inform, or sue for the same; and shall and may be seized as forfeited by the collector, or any of the officers of the custom house or customs, or by any of the officers of Government serving in the salt department, to be by them conveyed and deposited in one of the said United Company's golahs or warehouses, or other secure place." §. 4.

Salt liable to forfeiture on breach of the rules contained in this regulation.

Section 4. Option granted to proprietors to lodge their salt in the Company's golahs or warehouse, instead of landing it at the custom house; and without payment of the prescribed duty in the first instance.

"The proprietor or proprietors of salt, imported as aforesaid, may, if he or they be so disposed, instead of landing the salt so imported at the custom house, and paying the duty due and payable thereon, in the manner prescribed generally for the payment of the duties denominated Government Customs, on goods or merchandize imported by sea, deliver it on shore at the Company's golahs or warehouse, or such other secure place as shall be approved by the Governor General in Council; and secure and lodge it therein without payment of duty in the first instance; provided, however, that salt, so warehoused, shall not be removed, until the duty imposed by this regulation shall be duly paid." §. 5.

But such salt not to be removed, until the duty shall be duly paid.

Section 5. Salt lodged or secured as abovementioned, to be cleared and taken away within twelve months, on payment of the full duty imposed by this regulation.

"The importers, proprietors or consignees of salt, which shall have been lodged or secured as aforesaid, shall, within twelve calendar months, to be computed from the date of the production of the manifest at the custom house, clear and take from and out of such warehouse or places all such salt, and shall pay the full duty imposed by this regulation; and in case any such importers, proprietors or consignees shall fail or neglect so to do, it shall be lawful for the Governor General in Council, or such officers as may be duly empowered by him in his behalf, to cause all such salt to be publicly sold or exposed to sale; and after such sale, the produce thereof shall first be applied to the payment of the duty imposed by this regulation; and the overplus, if any, shall be paid to the proprietor, or

On failure, the salt liable to be sold.

And the produce how to be disposed of.

or other persons authorized to receive the same; provided, that no such salt shall be sold, unless a price can be obtained for the same, equal, at least, to the full amount of the duty aforesaid; but if such price cannot be obtained, then all such salt shall be effectually destroyed by, and in the presence of, such officer as the Governor General shall appoint."

Proviso.

Salt liable to be destroyed.

By Regulation 39, 1803, *for preventing the illicit importation, manufacture, sale, or transportation of salt in the provinces ceded by the Newab Vizeer*, rules, corresponding in principle with those establised in the lower provinces, were enacted (as stated in the preamble to that regulation) "for the purpose of obtaining a revenue from the importation and sale of foreign salt in those provinces, and from the manufacture and sale of the salt produced within the said provinces." But on the acquisition of the conquered provinces in the Dooab, and on the right bank of the Jumna, it was judged expedient to adopt a change of system, adapted to the circumstances of the country, and calculated to restore and encourage the trade formerly carried on with the ceded and conquered provinces, and other parts of the British territories; particularly the province of Benares. The following rules (with others, which have been superseded by subsequent provisions, stated under the heads of Customs and Town Duties,) were therefore enacted in Regulation 6, 1804, for the whole of the upper provinces and Benares. 1. "Regulation 39, 1803, for preventing the illicit importation, manufacture, sale, or transportation of salt in the provinces ceded to the Honorable Company by the Nawab Vizeer, is rescinded." 2. "The exclusive privilege reserved by Government of importing and selling foreign salt in the ceded provinces, and in the conquered provinces in the Dooab, and on the right bank of the Jumna, and of manufacturing and selling the salt produced within those provinces, is relinquished and discontinued; and no salt will be hereafter imported, manufactured, or sold, in the said provinces, by, or on account of Government." 3. "From and after the 1st day of November next, all persons, (with the exceptions specified

Preamble to Regulation 39, 1803, relative to provinces ceded by the Newab Vizeer. And salt monopoly established by that regulation.

Reasons stated in preamble to Regulation 6, 1804, for a change of system, in the ceded provinces.

And rules enacted for discontinuing a monopoly of the salt manufacture and trade in those provinces, as well as in Benares.

Customs and town duties since established.

Reg. 6. 1804. Section 2. Regulation 39 of 1803, rescinded.

Section 3. The exclusive privilege reserved by Government of importing, manufacturing and selling salt in the ceded and conquered provinces, relinquished and discontinued.

Section 4. Permission granted to individuals to import and sell

Salt in the ceded and conquered provinces, on their own account, from and after the 1st of November next, subject to the payment of a duty to be hereafter determined.

specified in the following section,) will be permitted to import foreign salt, and salt produced in the conquered provinces on the right bank of the river Jumna, belonging to the Honorable Company, into any part of the ceded provinces or of the conquerred provinces within the Dooab, subject to the payment of a duty, the rate of which will be determined by a regulation to be hereafter published and to sell the same on their own account."* 4. "All Europeans (whether British subjects, or the subjects of a foreign state,) are prohibited from trading in salt, directly or indirectly, in the ceded provinces, in the conquered provinces in the Dooab, or on the right bank of the Jumna, or in the province of Benares, under pain of the seizure and confiscation of the salt belonging to them, and of being otherwise dealt with as the Governor General in Council shall judge proper."

Section 5. Europeans prohibited from trading in salt.

Penalty incurred by acting contrary to this prohibition.

5. *First.* "The prohibition at present in force for the exportation of salt from the ceded provinces into the province of Benares, exempt from the payment of duty, is rescinded." *Second.* "The prohibition at present in force against exporting salt from the province of Benares into the ceded provinces is abolished."†

Section 8. The prohibition in force for exporting salt from the ceded provinces into the province of Benares free of duty, rescinded.

Section 9. The prohibition in force against exporting salt from the province of Benares, abolished.

6. "With the exception specified in the following rule, the *nimmuck saur* mehals in the ceded provinces, and in the conquered provinces in the Dooab, and on the right bank of the Jumna, shall be placed under the management of the officers in charge of the collection of the land revenue of those territories, until the expiration of the current Fussily year. From the commencement of the ensuing Fussily year, the assessment of such mehals shall be added to the jumma of the zemindars or farmers, in whose estates or farms the mehals may be situated, and with whom the settlement may be made. In the event of any zemin-

Section 14. Under whole management the *nimmuck saur* mehals in the ceded and conquered provinces are to be placed. How to be assessed.

* See duty established by Section 2, Regulation 17, 1810, quoted under head of *Customs.*

† The provisions in force, relative to an import duty upon salt, (not being salt purchased at the Company's sales in Calcutta,) on the importation of it into the province of Benares, are stated in Section 18, Regulation 9, 1810, and in Regulation 17, 1810. The same provisions include "all salt, not being salt purchased at the Company's sales in Calcutta, whether the produce of the British territories, or of any foreign state, on the importation of such salt into, or on the transportation of such salt through, any part of the ceded and conquered provinces." They have been cited, at length, under the head of *Customs.*

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dar or farmer declining to accede to an annexation to his jumma of the above nature, the collector will adopt proper measures for realizing the revenues of such mehals, on account of Government, agreeably to the former usages and customs of the country." 7. "In instances in which salt may be manufactured to a considerable extent, in any part of the ceded provinces, or of the conquered provinces in the Dooab, or on the right bank of the Jumna, the collector shall let in farm the lands, pits, or lakes, from which the salt is produced, from the commencement of the ensuing Fussily year, for a period of time not exceeding the term of the ensuing settlement of the land revenue. Whenever a collector shall be unable to let places of the above description in farm, on fair and reasonable terms, he will adopt proper measures for realizing the revenues of the same, on account of Government."

Section 15. Collector to let in farm the lands, pits, or lakes, in the ceded or conquered provinces, from which salt is produced in considerable quantity.

Collector how to proceed when unable to let such places in farm on fair and reasonable terms.

It remains only to observe, that there are five salt agencies in the provinces of Bengal and Orissa, viz. 1, Chittagong and Bullooah. 2, Roymungul and the 24-Pergunnahs. 3, Tumlook. 4, Higelee. 5, Cuttack. Each of these divisions is superintended by an agent, and an assistant from the civil service; besides other officers, european and native.* There are likewise three superintendents of the eastern, midland, and western chokies; besides a fourth, in Behar. The general controul at the presidency was formerly vested in the Board of Revenue; but is now exercised by the Board of Trade, who have a secretary and sub-secretary in the *Salt Department*; being the same persons, who hold similar offices in the opium department.†

Number and designations of salt agencies in the lower provinces.

And of superintendents of chokies.

General controul vested in the Board of Trade at the presidency.

* The provisions in force, for the appointment and removal of the native officers, have been already mentioned with those respecting the native officers in other departments. Vol. II. pages 153 to 163.

† By a statement, which the Board of Trade submitted to Government on the 29th March 1814, shewing "the net profit derived from the Salt Department," from the year 1781-2 to the year 1812-13, it appeared that the annual amount had been augmented, under the superintendence of that Board, since the year 1793, from somewhat more than 70 lacks of Rupees, the net profit of 1790-1; to Rs. 1,14,40,000, the net profit of 1812-13. In the year 1808-9, it exceeded Rupees 1,27,00,000. The net receipts, after deducting advances and charges, and in 1816-17 a payment of Sa. Rs. 8,00,000 to the French Government, have been as follows:—In 1813-14, Sa. Rs. 96,37,709; in 1814-15, Sa. Rs. 99,07,100; in 1815-16, Sa. Rs. 1,02,50,614; in 1816-17, Sa. Rs. 1,06,51,236. The annual quantity of salt disposed of at the public sales, during the same period, has been from 42 to 45 lacks of maunds.

General observations upon the present monopoly of salt, in Bengal, Behar, and Orissa. And reasons which preclude any immediate suggestion for the abolition of it.

The large amount of the revenue derived by the Company from the present salt monopoly in Bengal, Behar, and Orissa, and the uncertainty whether an equal sum could be raised by a duty upon salt, if the manufacture and trade were thrown open, preclude the suggestion of any immediate discontinuance of that monopoly; although the expediency of it cannot be maintained on the grounds which have been noticed respecting the monopoly of opium. It is also doubtful, whether the actual prices of salt, in the retail market, would be considerably lowered to the consumers by an alteration of the system in force; which has, at least, this advantage attending it; that it enables Government, by importing a greater or less quantity of salt from the northern circars, and coast of Coromandel, when the home manufacture of Bengal may be insufficient, to regulate the quantity disposed of at the public sales; and thereby prevent the enhanced price of a necessary of life becoming inconvenient and oppressive to its native subjects.

Estimates of the population of Bengal, Behar, and Orissa, founded on the annual sale and consumption of salt.

The annual consumption of salt, as being an article in general use, has been considered a medium for calculating the population of the three provinces, included in the monopoly. The late Mr. James Grant, in a letter addressed by him to the Governor General and Council on the 31st October 1788, assuming the average annual sale, at that time, to be thirty-three lacks of maunds (or, at 80 pounds to the maund, 26,40,00,000 pounds) and the average annual consumption of each person (man, woman, and child indiscriminately, as founded on inquiry respecting the actual expenditure of a family of sixty-five persons,) to be nearly ten seer, or twenty pounds, computed the total population to be "about thirteen million six hundred souls." But this computation, which appears to have allowed too large a consumption of salt to the general average, falls considerably short of the number of inhabitants commonly ascribed to these populous provinces; as well as of the result of other local inquiries and calculations.*

The

* *Vide* preface to Translation of the *Sirajiyah*, by Sir W. Jones: and Chapter II. of "Mr. Colebrooke's remarks on the husbandry and internal commerce of Bengal." The inquiry from the collectors, noticed in the latter, was made by myself in

The following further extract from a work, already cited under the preceding head, and with which I shall conclude the present, affords more satisfactory *data* for an estimate of the actual population, founded on the annual consumption of salt by the inhabitants of Bengal and Behar, and the British possessions in Orissa, exclusive of the late accession of Cuttack and its dependencies.* "The food of an Indian is very simple; the diet of one is that of millions, namely rice, with split pulse and salt, to relieve its insipidity. Two and half ounces of salt, two pounds of split pulse, and eight pounds of rice, form the usual daily consumption of a family of five persons in easy circumstances. Or, according to another estimate, four *mans* of rice, one *man* of split pulse, and two and a half *sers* of salt, suffice for the monthly consumption of a family of six persons, consisting of two men, as many women, and the same number of children. Whence we deduce, for the average consumption of salt in a year, five *sers*, or ten pounds, a head, according to either estimate; or, admitting a *chatac* a day for four persons, as is estimated where salt is moderately cheap; the annual consumption of each person is a little more than five and a half *sers*, but less than twelve pounds. The annual sales of salt, under the monopoly of that article by Government, exceed 35,00,000 *mans*, on an average of five years ending in 1793.

in the year 1789, at the desire of Lord CORNWALLIS; and gave an estimate of about twenty millions for the provinces of Bengal and Behar, with somewhat more than another million for Midnapore and the salt districts in the province of Orissa; and an addition of nearly three millions for the province of Benares. The estimate for the latter province was furnished by the Resident, Mr. DUNCAN.

* Mr. COLEBROOKE concurred with Sir W. JONES, in computing twenty-four millions to be "at least the present number of the native inhabitants of Bengal and Behar;" and subjoined, what is cited from his remarks, as leading, with other data, to the computation of a greater number. He adds, that he "cannot therefore hesitate in stating twenty-seven millions for the whole population, including the province of Benares." I have not seen any estimate of the population of the upper provinces; but supposing it to bear the same proportion to the land assessment, that it does in the lower provinces, the number of inhabitants in the provinces ceded by the Newab Vizeer, DOULUT RAO SINDHEA, and the Peshwa, may be reckoned to exceed twenty-five millions; or to be at least twenty millions, if the computed population of the province of Benares be adopted as the standard of calculation. The entire population of the whole of the British territory now subject to the presidency of Bengal may therefore be assumed as exceeding *fifty millions*.

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The quantity, and the price for which it has been sold, have since been much increased; and it is certain, that no precautions can entirely prevent smuggling. The exports from Bengal into Asam, and other contiguous countries, though not inconsiderable, are probably balanced by the contraband trade, and by the illegal manufacture of impure salt obtained from ashes and from the mother of nitre. These impure sorts, which are deemed salutary, and even necessary for cattle, though not equally so for men, were often employed by retailers in adulterating sea-salt; and were also voluntarily consumed by the poor: probably they still are so, in some degree, though less than heretofore. The quantity of salt, consumed in Bengal and Behar, certainly exceeds 40,00,000 *mans*; exclusive of Benares, the consumption of which is supplied by its own manufacture, joined with importations from Sambher, and other places. That quantity, compared with a supposed population of thirty millions of people, would indicate an annual consumption of nearly eleven pounds a head: but if we suppose the population not to exceed twenty-four millions, we must then rate the average consumption of salt so high as fourteen pounds, which exceeds all experience in India, even where salt is cheapest."*

* Pages 20 to 22 of Mr. COLEBROOKE's remarks, &c. See further, on this subject, the *fifth report* of the Select Committee of the House of Commons; who, after remarking that their enquiries do not enable them to state, with any precision, or with much confidence, the population of Bengal, Behar, or Orissa, and Benares, add as follows:—"An actual enumeration of the inhabitants of those provinces, or a calculation founded on data promising a high degree of certainty, is still a desideratum. Nothing more has yet been produced, than the estimates of ingenious men, who differ considerably among themselves. The first opinion promulgated after the Company's acquisition of the Dewanny, concerning the population of the three provinces, was, that it amounted to ten millions; subsequent observations led to a persuasion, that this estimate was far too low. Sir WILLIAM JONES, about five and twenty years ago, thought that the population of Bengal, Behar, Orissa, and Benares, amounted to twenty four millions; and Mr. COLEBROOKE, about ten years ago, computed it to be thirty millions. If any opinion were now to be offered on a point which has not yet been subjected to strict investigation, perhaps there would be no danger of exceeding the truth, in adopting a medium between the two last calculations, and supposing the population of the four provinces to be not less than twenty-seven millions."

SECTION

SECTION V.

SALT-PETRE MONOPOLY.

When this monopoly is supposed to have commenced; and the manner in which it has been conducted under the Company's government.

THIS monopoly was abolished, on the 11th March 1814, by Regulation 4, of that year. But the previous mention of it in this Analysis renders it proper, that the rules before in force should, notwithstanding, be stated, with a brief account of the article which constituted the subject of this monopoly. This is chiefly the produce of Behar; and a former chief of that province (Mr. EWAN LAW) on being examined by a committee of the House of Commons, as to the manner in which the salt-petre trade was conducted before the Company had established a monopoly of it, stated, that he "believed the salt-petre trade was always considered as a monopoly, and granted by the Subahs as a matter of favor to different persons."* Being further asked, in what manner foreign and native merchants purchased this article before the establishment of the English influence, he said, "It could only be bought from the manufacturer in the first instance, by those persons who were allowed to trade in it; and all other persons must purchase from them." He added, with respect to the provision of the Company's investment of salt-petre, at the time of his examination—"The whole quantity of salt-petre produced in the province of Behar is brought into the Company's factories; and certain established prices allowed for it; and no other persons whatever are permitted to trade in this article." This statement may be applied, in substance, though not uniformly with the same degree of strictness as to exclusive privilege, till the monopoly was abolished. The Company were bound by an act of Parliament (1 Ann. cap. 12. §. 112 to 114) to deliver annually, if demanded, into his Majesty's stores, five hundred tons of salt-petre, at 45 £ per ton in time of peace, and 53 in war; with an allowance of fifteen pounds on every hundred, and twelve pounds weight for refraction upon refinement. They were further required by the

Engagement of the Company to supply a certain quantity of salt-petre annually, into the King's stores, if demanded.

* Appendix No. 103, to report of the Select Committee of 1783: which also see under the head of *Salt-petre*.

statute 31. Geo. III. cap. 42, to put up at their public sales, or to reserve and deliver into the stores of his Majesty certain quantities of salt-petre, at certain rates. It had also been usual to supply the foreign companies (French, Dutch, and Danish) with a certain quantity annually, at a moderate price, in time of peace; and it was a national object to have the means of withholding this supply from them in time of war. Of the residue, manufactured in each year, part was destined for the London market, and proportioned to the spare tonnage in the Company's ships. The rest was sold, at the Company's warehouse, for local expenditure. A consideration of these objects collectively had probably operated in keeping up a virtual monopoly of salt-petre, in the hands of the Company; though it was not formally declared by any known regulation, till the enaction of Regulation 8, 1812, *for declaring the manufacture of salt-petre to be a monopoly on the part of Government; for preventing the illicit manufacture of salt-petre; and for regulating the conduct of the agents, and all persons employed in the provision of that article, in the provinces of Bengal, Behar, Orissa, and Benares.* The preamble to this regulation states, that "the Governor General in Council deeming it to be expedient, that the manufacture of salt-petre should be declared to be a monopoly on the part of Government, in the provinces of Bengal, Behar, Orissa, and Benares, with the view of securing to Government all the salt-petre, the produce of the said provinces; has been pleased to enact the following rules." §. 2. "Salt-petre shall not be manufactured in the provinces of Bengal, Behar, Orissa, and Benares, excepting on account of Government, or with their express sanction; and all salt-petre manufactured in breach of this prohibition shall be liable to seizure and confiscation." §. 3. "No person shall be compelled, under any pretence whatever, to engage in the provision, or manufacture of salt-petre, either as a contractor, or as a nooneah, or in any other capacity; and any person, who may engage in the provision or manufacture of salt-petre, and may not choose to re-engage, shall be at liberty to

And usual supply to foreign companies in time of peace.

Residue of yearly manufacture how disposed of.

Considerations stated appear to have operated in keeping up a virtual monopoly; though not formally declared before enaction of Regulation 8, 1812.

Preamble to that regulation.

Section 2. Salt-petre not to be manufactured without the sanction of Government, under penalty of confiscation.

Section 3. No person to be compelled to provide or manufacture salt-petre.

to relinquish the employment, after performing the engagements into which he may have entered, and to follow any other occupation he may think proper, without hindrance or molestation." §. 4. *First.* "If an agent, the assistant to an agent, or any native officer employed under them in superintending the manufacture of salt-petre, shall compel any person to receive advances, or to contract for, or engage in, the provision or manufacture of salt-petre, such will be of course at liberty to institute a suit, with a view to the annulment of such contract or engagement, and to the recovery of any compensation, in the form of damages, to which he may deem himself entitled; and the judge of Dewanny Adawlut, before whom the said suit may be tried, shall, on proof thereof to his satisfaction, adjudge the said contract or engagement null and void; and direct the complainant to be discharged; and cause the advances, if any should have been made, to be returned, and award such costs and damages as may appear to him proper." *Second.* "Suits, which may be instituted under the foregoing rule, shall be decided on a summary enquiry on the principle of the provisions contained in Section 15, Regulation 7, 1799." §. 5. "All contracts or engagements, entered into for the provision of a specific quantity of salt-petre, shall be made in writing, attested by at least two credible witnesses, and be signed by the agent, or any of his officers, whom he may empower to sign them: one copy shall remain with the agent or his officer, and the other shall be delivered to the party with whom the contract or engagement is made. In all practicable cases, security shall be taken for the performance of such contracts and engagements." §. 6. "When any contractor, nooneah, or other person, shall fail to deliver, within the stipulated periods, the quantity of salt-petre for which he may have engaged, the agent shall be at liberty to place peons over him, in order to expedite his deliveries." §. 7. "A list or register of the persons employed in the provision of salt-petre, within the limits of each police thannah, shall be fixed up by the agent at each thannah. The list shall specify the places of abode of the persons so employed; and shall be corrected at the beginning

Section 4. Persons so compelled may institute suits for the annulment of their contracts, and for damages.

Such suits to be decided on summary inquiry, under the provisions in Section 15, Regulation 7, 1799.

Section 5. Contracts to be made in writing, and security to be taken when practicable.

Section 6. The agent may place peons over contractors or others failing in their engagements.

Section 7. Lists of persons employed in the provision of saltpetre to be fixed up at the thannahs, and copies to be furnished to the judge every three months.

ning of every month, according to the alterations that may have happened in the month preceding. The darogahs of the thannahs are to give immediate permission for the exhibition of the lists; and the agent shall transmit copies of them, in the native languages, once in every three months, to the judge of the zillah." §. 8. "All officers of Government, proprietors and farmers of land, talookdars, under-farmers and ryots, and their officers, agents, and dependants, are hereby required, on application from the agents, or any of their officers, to afford every assistance in their power towards promoting the manufacture, which may be consistent with the authority vested in them, and with the general regulations." §. 9. "Gomastahs, and all native servants and persons employed under an agent for the provision of salt-petre, accepting of money from individuals for abetting or conniving at the alienation of salt-petre by the manufacturers, and others; writing false balances, or in any manner falsifying the Company's accounts; embezzling the property entrusted to them; or exacting money in any manner from any contractor, nooneah, or other person, employed or concerned in the provision or manufacture of salt-petre, to whom advances shall have been made; shall, on conviction in the court of Dewanny Adawlut, to which they may be amenable, forfeit treble the amount of the value of the property or the money, which they may have embezzled, alienated, or exacted; and upon the circumstances being represented by the Board of Trade, to the Governor General in Council, he will, if it shall appear to him proper, order a prosecution to be instituted against the party or parties, and declare the offender incapable of serving Government in any capacity." §. 10. *First.* "Any persons making advances for the illicit manufacture or delivery of salt-petre to contractors, nooneahs, or other persons, employed in the provision or manufacture of salt-petre, or to the officers employed under the agents for the provision of salt-petre, or for purchasing or obtaining salt-petre from such contractors, nooneahs, persons, or officers, in an illicit manner, shall, on conviction, be liable

Section 8. All public officers and landholders, &c. required to afford assistance to the agent on his application.

Section 9. Penalties for misconduct of gomastas or others employed under an agent in providing salt-petre.

Section 10. Penalties for persons convicted of making advances for the illicit manufacture of salt-petre.

to a fine of five Sicca Rupees for every maund of such salt-petre, for which advances shall have been so made, or which shall have been so purchased or obtained; and the salt-petre, if seized, shall be liable to confiscation." *Second.* "If a person convicted of any of the offences specified in the preceding clause, shall refuse or omit to discharge the penalty which shall have been imposed upon him, the judge shall proceed to levy the amount of the penalty, by issuing the same process against the property of the offender, as is prescribed for enforcing other decrees of court. If property belonging to the offender, sufficient to make good the penalty, shall not be found, the judge shall commit him, for such period as he shall think proper, not exceeding six months, to confinement in the jail for debtors." §. 11. "Salt-petre, which may be confiscated under Section 2, of this regulation, shall be valued at two Sicca Rupees per factory maund." §. 12. "*First.* "All persons who may give information to the agents for the provision of salt-petre, or to any of their officers, of salt-petre illegally manufactured, in deposit, or in transit, in the provinces of Bengal, Behar, Orissa or Benares, provided such salt-petre shall be attached and confiscated in consequence of their information, shall be entitled to a reward, in the proportion of one-fifth of the valuation described in the preceding section; and a proportion of two-fifths of the said valuation shall be divided equally between the agent and his officers, who were concerned in making the seizure, in such proportion among the latter as the Board of Trade may, in each instance, direct." *Second.* "In case any attachment shall be made of such salt-petre, by the officers of the agent, and not upon information, the persons concerned in making such attachment shall be entitled to a reward equal to two-fifths of the valuation of the salt-petre, described in Section 11, in such proportion as the Board of Trade may, in each instance, direct. The agent shall be likewise entitled to one-fifth of the said valuation." §. 13. "The boats and bullocks, or other cattle, and the carriages on which salt-petre, manufactured or obtained in violation of the rules contained in this regulation,

How such penalties are to be enforced.

Section 11. Confiscated salt-petre to be valued at two rupees per maund.

Section 12. Certain proportions of the proceeds of confiscated salt-petre to be paid to persons giving information, and to the agent and the persons who made the seizure.

How to be distributed, when the seizure was made without information given by individuals.

Section 13. Boats, &c. on which confiscated salt-petre may be laden, shall be liable to confiscation, and

the proceeds to be distributed in the same proportions.

may be laden, shall be liable to seizure, confiscation and sale; and the proceeds of the sale of such boats, cattle, or carriage, shall be divided and distributed in the same proportions, and under the same rules, as the value of the salt-petre confiscated, as described in the preceding section." §. 14. "All confiscations shall be made and adjudged by the Board of Trade; and all persons who may become entitled to established rewards, in consequence of such confiscations, shall be paid the same either by the Board of Trade, or by the agents for the provision of salt-petre, as soon as possible, after the confiscation of the salt-petre, boats, cattle, or carriages, shall have been duly decided upon."

Section 14. Confiscation to be made by the Board of Trade, and the rewards to be paid as soon as possible.

Section 15. Cultivators of land employed in the salt-petre business subject to the same rules as others, except during the manufacturing season; and Sections 20 and 21, Regulation 29, 1793, and Regulation 9, 1801, declared applicable to persons engaged in the manufacture on the part of Government.

§. 15. "Persons actually employed in the manufacture of salt-petre, who cultivate or rent lands, are to pay according to their pottahs or engagements in the same manner as other ryots or renters, and under the same rules and regulations; with exception only to the mode of demanding and enforcing payment of arrears during the manufacturing season, which is to be considered as commencing on the first day of Kautic, and ending on the last day of Assar; and the whole of the rules contained in Sections 20 and 21, Regulation 29, 1793, and in Regulation 9, 1801, are hereby declared applicable to persons engaged on the part of Government in the manufacture of salt-petre."* §. 16. "The agents and their assistants, as well as native officers and agents, are declared liable to be sued in the Dewanny Adawlut, for any breach of this regulation, or of any other regulation that may be passed and printed in the manner directed in Regulation 41, 1793; but previously to the institution of any such suit against an agent or assistant, the rules contained in Sections 2 and 3, Regulation 8, 1806, shall, on all occacions, be duly observed.†

Section 16. The agents, their assistants and native officers liable to be sued for any breach of the regulations, under the rules in Sections 2 and 3, Regulation 8, 1806.

The foregoing regulation repealed by Section 2, Reg. 4, 1814; and reason assigned for the repeal.

THE foregoing regulation was repealed (as already noticed) by Section 2, of Regulation 4, 1814; and the preamble states, that it had been deemed proper to repeal Regulation 8, 1812, "with

* Vide page 670 of this volume.

† Vol. I, page 601, and sequel.

reference

reference to the provision contained in the 53d Geo. III. cap. 155, Section 21 :" which repealed so much of the act passed in the thirty-first year of the present reign, as required the Company "at their public sales to put up certain quantities of salt-petre, at certain rates; or to reserve and deliver into the store of his Majesty, his heirs and successors, certain quantities of salt-petre, at certain rates." It was, at the same time, explained by Section 3, Regulation 4, 1814, "that the rule contained in Clause First, Section 12, Regulation 9, 1810, as modified by Section 2, Regulation 19, 1812; under which salt-petre is subject to a transit duty of seven and a half per cent, is in full force and effect."*

Transit duty still payable on salt-petre, under Sec. 12, Reg. 9, 1810; and Sec. 2, Reg. 19, 1813.

The following additional extract from a work, already quoted under the two preceding heads, will form a proper conclusion to the present head. "The commerce of salt-petre might be slightly noticed, were it not particularly interesting on account of the decided superiority of these provinces, which is, in nothing, more conspicuous, than in this production. Considered with a view to science, the process by which it is obtained from earth, and its reproduction in the same ground, are curious and deserving of diligent attention; but we shall not encroach on the province of others, minutely to describe that process; or to speculate on the natural operation, by which earth is impregnated with this salt. We shall only remark, that the elementary substances, which form nitrous acid, are known to exist in the atmosphere. Common observers have noticed, that grounds much trodden by cattle, the walls of inhabited places, and in short any rubbish, wherein putrifying animal substances abound, do naturally afford nitre and culinary salt, by exposure to the atmospherical air. Artificial beds are made in India, as in Europe, upon these principles; but with less trouble, than in most other countries. It is only necessary to collect the earth of old walls, or the

This head concluded with an extract from Mr. H. Colebrooke's remarks on the husbandry and internal commerce of Bengal.

* See the rule here referred to, under the head of *Customs*: and also, under the same head (page 126 of the present volume) a regulation passed on the 26th April 1816, "for preventing the exportation by sea of salt-petre, from any of the ports subject to the presidency of Fort William, on vessels not being the property of British subjects; and for prohibiting the importation of that article from the interior into any of the foreign settlements situated within the limits of the said presidency."

scrapings

scrapings of roads, cowpens, and other places frequented by cattle, and to leave mounds of such earth exposed to the weather. Both nitre, and culinary salt, are naturally formed there, and the salt-petre is extracted by filtering water through earth so impregnated with nitre, to dissolve and bring away the salt which it contained. The brine is evaporated by boiling, and when cold affords nitre, by crystallization. The salt, thus obtained, is again dissolved, boiled and scummed; and when it has cooled, after sufficient evaporation, the brine yields the salt-petre of commerce. In the same earth nitre is reproduced within two years, in sufficient quantity to subject the earth to the same process, with equal success; mixing, however, a sufficient quantity of new rubbish, without which the nitre would be neither abundant nor easily collected. The manufacture of salt-petre scarcely passes the eastern limits of Behar. The parching winds from the west did not formerly extend beyond the same limits. It is a practical remark, that the production of nitre is greatest during the prevalence of the hot winds, which are perhaps essential to its abundant formation. In the change of seasons, which has been remarked within a few years last past, the hot winds have extended their influence to Bengal proper. Perhaps the manufacture of salt-petre might now be attempted with success in many districts of this province. The actual extent of the manufacture would admit of a much greater production, than commerce is now supplied with. The present quantity, including the importation from provinces west of Behar, falls short of 200,000 *máns*, the greatest part of which passes into the Company's warehouses for the first cost: and that does not much exceed two rupiyas for a *mán*. The rest, paying duty and charges of transport, and affording profit to several intermediate dealers, sells in general at four or five rupiyas the *mán*, for internal consumption, or for traffic with different parts of India.*

* Page 172, of Mr. H. COLEBROOKE's remarks on the husbandry and internal commerce of Bengal. A calculation is added to shew that a larger quantity of salt-petre might be transported to Great Britain, on such terms, as would render England "the general depot for the salt-petre of India," and enable her, by undersselling the nitre of Europe, to supply the foreign demand for this article.

SIXTH

SIXTH PART.

MISCELLANEOUS.

IT was proposed that this Part should include all matters of importance in the regulations, enacted by the Government of Fort William, in the form prescribed by Regulation 41, 1793, and *not included in the preceding parts.** These however have been found to contain so large a proportion of the entire code of regulations, that little remains to be stated. Considering the bulk to which the undertaking has unexpectedly extended; especially since a desire was entertained of rendering it useful to the Company's Civil Servants beyond the walls of the College, for which it was originally designed; this result is not to be regretted. I lament only that the size of the present Volume does not allow me to annex a supplement, containing the provisions of the regulations on civil and criminal justice, and the police, which have been published since the first Volume was printed. But the heads of these, and of all other regulations enacted to the end of 1817, which are now in force, and not included in this Analysis, will be stated in an *Appendix*. Reserving the College of Fort William for the concluding section of the present division, the few provisions in the existing regulations, which call for notice in it, will be stated in the following order. 1. Forms of address to the Nazim of Bengal and his family. 2. Rules for facilitating the progress of Military detachments. 3. Applications by civil officers for Military detachments, guards, or escorts. 4. Provisions for native Courts Martial, in particular cases. 5. Restrictions against importation and exportation of slaves. 6. Rule to be observed on the discovery of hidden treasure. 7. College of Fort William.

What proposed to be included in this part.

Subjects noticed in it, and order of them.

SECTION I.

Forms of Address to the Nazim and his Family.

THE provisions of Regulation 19, 1805, "for defining the form of address, and channel of application, to be observed by public officers in the Judicial, Revenue, and Commercial Departments, who may have occasion, in the discharge of their official du-

Rules established by Regulations 19, 1805, and 28, 1806, respecting forms of address to the Nazim of Bengal and his family.

* Vide introduction to Vol. 1, page 9.

ties, to make applications to His Highness the Newaub NASIR-OOL MOOLK, Nazim of Bengal;" as well as the provisions of Regulation 16, 1806, "for defining the form of address to be observed by the public officers of Government, in making applications to the members of family of His Highness the Nazim of Bengal," were generally noticed, with reference to the Judicial Department, in a note to page 427, Vol. I. of this Analysis. But it is proper to state them, at length, in this place, as relating to all the departments abovementioned. The preamble to Regulation 19, 1805, states, that "whereas it is provided by Section 10, Regulation 16, 1793, that complaints of a certain description shall be referred to His Highness the Nazim of Bengal; and whereas it has been deemed necessary, with a view to the support of the high rank, dignity, and established rights of the Newaub, that a particular form of address and a regular channel of communication, should be established for the guidance of the zillah and city magistrates, and of any other officers of the British Government, in referring complaints of the description of those above noticed, to His Highness the Nazim of Bengal, or in making any other applications to His Highness; the following rules have been enacted by the Vice President in Council." 2. "All references, which the officers in the Judicial Department may have occasion to make to the Newaub of Bengal, under the provisions contained in Section 10, Regulation 16, 1793; and generally, all other applications, which those officers may deem it necessary to make to the Newaub, shall be transmitted to his Highness through the channel of the officer holding the appointment of superintendent of Nizamut Affairs." 3. All applications which the collectors of the land revenue in the different zillahs, or the collectors of Governmment customs, or any other public officer, may find it necessary to make to the Newaub, on matters connected with their respective public duties, shall, in like manner, be transmitted to His Highness, through the channel of the superintendent of Nizamut Affairs." 4. "Applications or references, of the nature above described, may be transmitted by the public officers

Preamble to Regulation 19, 1805.

Section 2. All references or applications to the Newaub to be made by the judicial officers through the superintendent of Nizamut Affairs.

Section 3. All applications from other officers to be made through the same channel.

Section. 4. Mode in which such references or applications

officers of Government, in the form of a letter in the Persian language addressed to His Highness the Newaub, under the signature of the person by whom such applications may be made, and forwarded under an unsealed envelope to the superintendent of Nizamut Affairs; or the substance of the reference, or application, may be stated in an English letter, addressed to the superintendent of Nizamut Affairs; who will, without loss of time, make the necessary communication to the Newaub, and forward his answer to the officer of Government, from whom the application may have been received." 5. "Whenever an application may be made in writing, addressed to His Highness the Newaub, one established address, suitable to the high rank of the Newaub, and to the official situation of the person by whom the application may be made, shall be observed, agreeably to the form contained in the Persian transcript of this regulation." 6. "All applications to her Highness the MUNNEE BEEGUM, to the BUBBOO BEEGUM, or to the WALEDEH BEEGUM, or to the brothers of His Highness the Newaub, sons of the late Newaub MOBARUK-OOL DOWLAH, or to his brothers by marriage with the daughters of his father, shall be addressed, according to the form above prescribed, to His Highness the Newaub, and forwarded through the superintendent of Nizamut Affairs." 7. "Should it, on any occasion, appear to the superintendent of Nizamut Affairs, that the reference or application, which he may be desired to make to the Newaub, is liable to objections, either from its tenor, or from defect of form; the superintintendent may, in such case, delay the communication of it to the Newaub, and report the circumstances to the Governor General in Council, who will pass such orders on the subject as the case may appear to require." The following additional provisions are enacted in Regulation 16, 1806. §. 2. "The forms prescribed in the Persian transcript of this regulation shall be observed, whenever any of the public officers of Government may have occasion to address letters to the MUNNEE BEEGUM and BUBBOO BEEGUM." §. 3. "Whenever any of the public officers may have occasion to address any of the other branches of the

are to be forwarded.

Section 5. One established form to be observed in applications in writing to the Newaub.

Section 6. Similar form to be observed in addressing the other branches of the Newaub's family.

Section 7. Superintendent of Nizamut Affairs to report to Government on applications which he may deem liable to objection.

Regulation 16, 1806. §. 2. Prescribed form to be observed in addressing letters to the MUNNEE BEEGUM and BUBBOO BEEGUM.

Section 3. Public officers to apply to the

Superintendent of Nizamut Affairs in other instances for forms of address.

Section 4. All applications to other members of the Newaub's family, to be made through the superintendent of the Nizamut Affairs.

the Newaub's family, they are required to apply to the superintendent of Nizamut Affairs for the proper form of address." §. 4. "It is already prescribed that all applications, which may be made to His Highness the Newaub, shall be transmitted through the channel of the superintendent of Nizamut Affairs. In like manner, all applications, which may be made to the other members of the Newaub's family, shall be forwarded through the channel of that officer." §. 5. "In order to obviate any doubt or misconstruction respecting the intent of the rule contained in Section 4, of the abovementioned regulation; it is hereby explained, that all letters addressed to the Newaub himself, or to any other branch of His Highness's family, shall be sent through the channel already prescribed, under an open envelope, bearing the private seal of the writer, or his name written in the Persian character."

Section 5. All letters to be sent through the prescribed channel under an open envelope, bearing the private seal of the writer, or his name written in Persian.

General remark on above provisions.

THE provisions in Section 10, Regulation 16, 1793, referred to in Regulation 19, 1805, above cited, have been mentioned in Vol. I, page 49; and the grounds of policy and justice upon which the two regulations above specified were founded, are sufficiently stated in the premble to the former of them. It would therefore be superfluous to swell this volume with any further comment upon them.

SECTION II.

Rules for facilitating the progress of Military Detachments.

Rules contained in Regulation 11, 1806, for facilitating the progress of military detachments through the Company's provinces; and for objects immediately connected therewith.

SECTION 8, of Regulation 11, 1806, whereby the police officers are impowered to assist military officers, not proceeding with a corps, or detachment of troops, as well as other travellers, in cases of necessity, was stated in Vol. I, page 540. Sections 2, 3, 4, 5, 6, and 7, of the same regulation, contain provisions for facilitating the progress of military detachments through the Company's provinces; for ascertaining and defraying any necessary expense incurred for that purpose; and for providing a compensation, when any material damage may be sustained in the cultivation of

of the country from the march or encampment of troops," to the following effect. §. 2. "Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment, or corps, is required to give the earliest practicable notice to the collectors of the revenue of the zillahs, through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted. The commanding officer will likewise notify to the collectors the probable period of the arrival of the troops at the rivers or nullahs, intersecting their march, where boats or temporary bridges may be necessary for crossing the troops, and the baggage attached to them. The commanding officer will, at the same time, communicate to the magistrates of the zillahs, through which the troops are to pass, the probable time of the arrival of the troops within their respective jurisdictions." §. 3. *First.* "On receiving the notification mentioned in the foregoing section, the collector shall immediately issue the necessary orders to the landholders, farmers, tehseeldars, or other persons in charge of the lands through which the troops are to pass, for providing the supplies required; and for making any requisite preparations of boats or temporary bridges, or otherwise, for enabling the troops to cross such rivers or nullahs as may intersect their march, without any impediment or delay. The collector shall, at the same time, depute a creditable native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies, and of facilitating the march of the troops. It shall also be the duty of such native officer to provide the troops with whatever bearers, coolies, boatmen, carts and bullocks, that may be indispensably necessary to enable the troops to prosecute their route. Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police officer,

Section 2. Timely notice to be given to officers commanding detachments, proceeding through any part of the Company's territories.

Section 3. In what manner the collector shall proceed on receiving the above notice.

Police officers to assist in providing bearers, coolies, boatmen, carts, and bullocks.

ficer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required." *Second.* "The supplies furnished under the foregoing clause (including earthen pots, firewood, and every article of supply,) shall be paid for by the persons receiving the same, at the current bazar prices of the place at which they may be provided; and all officers commanding detachments of troops, or a single corps, marching through any part of the Company's territories, are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies, or in their behalf, against any person or persons under their command; and to afford such redress to the complaints as the nature of the case may appear to require."

At what rates supplies furnished to troops marching through the Company's territories, shall be paid for.

Commanding officers to make immediate inquiry into complaints preferred to them against persons under their command.

§. 4. *First.* "Whenever a detachment of troops, or a single corps, shall be provided with boats, temporary bridges, or other accommodations, by any landholder, farmer, tehseeldar, or other person, conformably to the orders of the collector of the zillah, for the purpose of crossing the troops and their baggage over rivers or nullahs, the commanding officer of such detachment, or corps, will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service. In instances in which temporary bridges may be constructed for the above purpose, the certificate, to be granted by the commanding officer, is to specify, generally, the dimensions of the bridges, and the materials of which they may be composed." *Second.* "The certificate mentioned in the foregoing clause shall be immediately transmitted to the collector of the zillah, by the person receiving it; accompanied by a detailed account of the expense incurred for the purposes therein specified. The collector shall, without delay, communicate the particulars of the account to the officer commanding the detachment, or corps, on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges." *Third.* "When the account abovementioned shall be returned to the collector,

Section 4. Certificate to be granted by the commanding officer, when troops shall be provided with boats, bridges, or other accommodations, under this regulation, to enable them to prosecute their route.

Such certificate to be transmitted to the collector by the person receiving it, with a detailed account of the expense incurred. The account to be transmitted by the collector to the commanding officer.

What to be certified thereon by the commanding officer. The account and vouchers

tor, he shall certify whether the sums and rates charged in it are, in his opinion, reasonable, and conformable to the usual rates of labor and hire in the zillah; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Governor General in Council. After the account shall have undergone the examination and report prescribed for all Military contingent charges, the Governor General in Council will pass such final order as may appear proper. In the mean time, the collector is empowered, in such cases, to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer, or other person entitled hereto; inserting the amount so disbursed by him at the foot of his treasury account, in explanation of his treasury balance, in the mode prescribed for similar cases." §. 5. *First.* "Whenever a proprietor, farmer, tenant or manager of land, through which any detachment, or corps, of the Company's troops, may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march, or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon, whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim. *Second.* If the proprietor, farmer, tenant, or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the collector of the zillah (either in person or by his vakeel) within ten days from the date of the certificate: but no claim of this description shall be received by the collector after the expiration of that period, unless the person prefering it shall assign good and satisfactory reason for the delay. The collector, on receiving a statement of damage, and the commanding officer's certifiate thereon, within the

to be transmitted by the collector, with his report on the charges, through the prescribed channel, to the Governor General in Council.

In the mean time the collector is empowered to pay such proportion of the charge as he may consider reasonable; inserting the amount at the foot of his treasury account.

Section 5. In what manner landholders and other persons farming or holding land, are to proceed, who shall have sustained any injury from the march or encampment of troops.

Certificate to be granted by the commanding officer on such occasions.

The person receiving such certificate is at liberty to present the same with a statement of his claim, to the collector, within ten days from the date of the certificate.

Rules for the conduct of the collector, on re-

eiving such statement and certificate.

the prescribed period, or afterwards, if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite, to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government. It is however declared, that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate. In such cases, if the collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops, by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation." §. 6. "Immediately on receiving the notification mentioned in Section 2, the magistrate shall transmit orders to the several police darogahs, or other local officers of the police, through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the collector, in procuring the requisite supplies; as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country." §. 7. "Officers commanding detachments of troops, or a single corps, on their march through any part of the Company's territories, are already required, by the General Orders, issued under date the 1st of February 1788, to report to the Commander in Chief, in what manner the trooops have been supplied, in passing through the districts lying in their route. In like manner, the collectors are directed to report to the Board of Revenue, and the magistrates to report to the Nizamut Adawlut, for the information of the Governor

To report his proceedings to the Board of Revenue for the orders of Government. With the exception specified in this clause, no claim will be received, unless accompanied by the prescribed certificate of the commanding officer.

Section. 6. In what manner the magistrates are to act on receiving the notice mentioned in Section 2.

In what manner police officers are to assist in facilitating the march of troops.

Section 7. What report to be made to the Commander in Chief by officers commanding troops on their march through the Company's territories.

In certain cases any misbehaviour of the troops to be reported by the collectors to the

Governor General in Council, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded, and of sufficient importance to require communication to Government."

SECTION III.

Applications by Civil Officers for Military Detachments, Guards, or Escorts.

Provisions in Regulation 11, 1806, for applications by civil officers for military detachments, guards, or escorts, from the regular battalions.

IT being judged necessary, on the reduction of the provincial battalions in the upper provinces, that fixed and defined rules should be established for the guidance of the magistrates, and other civil officers, in applying for detachments, guards, or escorts, for the public service, from the regular battalions; the following rules, on the subject, are prescribed in Sections 14, 15, 16, 17, 18, and 19, of Regulation 11, 1806. §. 14. *First.* "Whenever the magistrates may require detachments of troops from the regular battalions, for the apprehension of public offenders, or for the maintenance of the peace in their respective districts, they shall state in writing, as fully and circumstantially as may be practicable, the nature of the service required to be performed, to the officer commanding the corps or companies, from which the detachment is to be furnished; leaving it to the commanding officer, on a consideration of the circumstances stated, to judge of the strength of the force which should be employed in the execution of the duty in question." *Second.* "The power vested in the several magistrates by the foregoing rule, being founded upon the nature and exigency of the case, which may frequently require promptitude and decision, and will seldom admit of a reference to Government; it shall be the duty of officers commanding corps and detachments, immediately to furnish the necessary military aid, whenever applications may be regularly and publicly made to them by the magistrates, for troops, for the maintenance of the peace, or for the support of the general police of the

Section 14. Applications to be made in writing, stating the service to be performed; and military officers to determine the force requisite for such service.

Civil magistrates responsible for calling in the aid of the military, in cases of emergency; and military officers not to exercise any discretion in granting or withholding such aid. Report to be made to Government by the magistrates.

the country. By those means, the responsibility of calling in the aid of the military will rest with the civil magistrates, and the allotment of the force will depend upon the officers commanding troops; who are not, however, on occasions of this nature, to exercise any discretion in granting or withholding the required aid; but as it is, at the same time, essential to restrict the employment of military force to cases of absolute necessary, the magistrates are hereby enjoined to confine their requisitions for military force; to cases of that description and to report to Government, whenever they may apply for military aid, under the rule contained in this section; at the same time furnishing the Governor General in Council with the necessary information respecting the circumstances upon which the application for such aid may have been grounded."* *Third.* "The officers commanding troops, by whom such detachments may be furnished, in pursuance of the applications of the magistrates, shall immediately transmit the necessary reports thereof to the Commander in Chief." §. 15. *First.* "The permanent guards required by the magistrates, by the collectors of the land revenue and customs, by the commercial residents, and by any other public officers authorized to require such guards for the protection of the public treasuries, stores, or other property, shall be in future furnished in the ceded and conquered provinces, from the regular battalions. The civil officers requiring permanent guards shall accordingly state, fully and circumstantially, the nature of the service necessary to be performed, to the officer commanding the corps, from which the guards are to be furnished. On receipt of such information, the commanding officer shall furnish guards of such strength as he may deem necessary; provided that no public objection shall occur to a compliance with the application; and that he shall be satisfied, that the civil officer

Military officers to report their compliance with such applications to the Commander in Chief.

Section 15. Rules for supplying the permanent guards required by the several civil officers.

* On the 24th June 1789, the magistrates were directed by a circular order of Government to send copies of the reports required by this clause to the courts of circuit of their respective divisions; and the latter were desired to submit their sentiments on the subjects of them to Government, if it should appear requisite

from

from whom the application may have been received, was entitled to make it by the general rules and usages of the service. But as the same necessity does not exist for vesting the magistrates and other public officers, in cases of this nature, with the extensive powers entrusted to the magistrates in the cases described in Section 14, of the present regulation, the commanding officer shall be at liberty, in case he shall deem it necessary or proper, on any public grounds, to suspend compliance with the application; and to refer the case to the Commander in chief, who will forward the representation to Government for its decision, or pass such orders on the subject, as may appear to him to be proper. With the view likewise of preventing abuse of the powers vested in the civil officers, in applying for guards from the regular battalions, the magistrates and other officers in the Judicial Department shall, on the receipt of the present regulation, transmit to the Governor General in Council a statement of the permanent guards employed or required by them, for his consideration and orders. In like manner, the officers in the Revenue and Commercial Departments shall transmit to the Board of Revenue, and Board of Trade, a statement of the permanent guards required by them in the discharge of the duties of their respective offices; and the Board of Revenue and Board of Trade shall forward the statements required from the officers acting under their authority, with any remarks which they may deem necessary, for the consideration and orders of Government." *Second.* "When the permanent guards, required by the different officers in the civil department of the service, shall have been fixed under the rule contained in the preceding section, no augmentation shall be made in the number or strength of such guards, without the express sanction of the Governor General in Council."

Permanent guards not to be encreased without the previous sanction of Government.

§. 16. "The temporary escorts, which may in future be required by the magistrates, by the collectors of the land revenue and customs, by the commercial residents, and by any other public officers authorized to require military aid, for the remittance of treasure, of stores, or of other public property; or for other purposes

Section 16. Rules for supplying civil officers with temporary escorts.

poses connected with their respective official situations; are in future to be furnished, in the upper provinces, from the regular battalions. The civil officer, requiring any such escort, is accordingly to state, fully and circumstantially, the nature of the service necessary to be performed, to the officer commanding the corps, from which the required escort is to be furnished. On receipt of such information, the commanding officer shall furnish an escort, of such strength as he may deem necessary, for the performance of the duty in question; provided that no substantial public objection shall occur to a compliance with the application; and that he shall be satisfied, that the civil officer, from whom the application may have been received, was entitled to make it by the general rules and usages of the service. But, if not, the commanding officer shall be at liberty to suspend compliance with the application, and to refer the case to the Commander in Chief, who will forward the representation to Government for its decision, or pass such orders on the subject, as may appear to be proper."

Section 17. Civil officers in the Judicial, Revenue, and Commercial Departments, to send monthly statements of guards, detachments, and escorts employed by them, to Government, and the Boards of Revenue and Trade, respectively.

§. 17. "It shall be the duty of the magistrates and other officers in the Judicial Department to transmit to Government, on the first of each month, a statement of the guards, detachments, and escorts employed by them in the preceding month. The collectors, commercial residents, and other officers in the Revenue and Commercial Departments, shall, in like manner, transmit to the Board of Revenue and Board of Trade, on the first of each month, a statement of the guards, detachments, and escorts employed by those officers respectively in the preceding month; and the Board of Revenue and Board of Trade are hereby required to report to Government, whenever they may be of opinion, that the guards, detachments, or escorts employed by the officers subject to their control, were not requisite for the public service."

Section 18. The foregoing rules have been framed chiefly with a reference to the ceded and conquered provinces.

§. 18. The foregoing rules have been framed chiefly with a reference to the ceded and conquered provinces, in which the military duties, connected with the offices of the magistrates, collectors, and other public officers in the civil branch of the service, are to be performed by the men of the regular corps. Provincial

vincial battalions having been established in the provinces of Bengal, Behar, Orissa, and Benares, for the discharge of those duties; it can seldom, if ever, be necessary for the magistrates, collectors, and other civil officers, in those provinces, to apply for guards or detachments from the regular battalions. Should any emergency, however, at any time occur, to render the services of the regular corps necessary for the maintenance of the internal peace of the country, or for any other public duty connected with the situations of the magistrates or other civil officers; those officers, and likewise the officers commanding corps and detachments in the provinces of Bengal, Behar, Orissa, and Benares, are to conform to the rules contained in Sections 14, 15, and 16, of the present regulation." §. 19. "The foregoing rules are not to be considered applicable to the presidency station. Whenever guards, detachments, or escorts may be required by the magistrates of Calcutta, and of its vicinity, or by any of the other civil officers, for the discharge of any public duty connected with their respective official situations, they are to make the necessary application for that purpose, agreeably to former usage, to the Governor General in Council, through the channel prescribed for conducting the public correspondence."

Similar rules to be observed by the civil and military officers in the lower provinces, in cases wherein the former may have occasion to apply for military aid.

Section 19. The foregoing rules not applicable to the presidency station. Applications for guards, &c. in Calcutta or its vicinity, how to be made.

SECTION IV.

Provisions for Native Courts Martial, in particular cases.

REGULATION 2, 1809, *for enabling the Commander in Chief to delegate the power of appointing general Courts Martial on native officers and soldiers of detachments from the Bengal army, serving beyond sea, and for determining the number of officers necessary for the formation of such Courts Martial,* is not immediately connected with any of the subjects of this Analysis; but cannot be omitted, without a deviation from the general design of it; and its preamble and provisions are therefore stated in this place. "By the annual acts of Parliament for the Government of His Majesty's forces, provision is made for empowering officers commanding

Provisions for appointment of general Courts Martial, when native officers and soldiers of the Bengal army may be on service beyond sea.

Preamble to Regulation 2, 1809.

manding in chief, not only to appoint Courts Martial, but to authorize officers under their command, with certain restrictions, to convene such courts; and a similar provision for the delegation of this authority is contained in the act passed in the twenty-seventh year of George the Second, for the prevention of mutiny and desertion in the Company's forces. But this latter act applies only to European officers and soldiers in the Company's service; and no regular provision has hitherto been made for enabling the Commander in Chief to delegate the power of appointing native general Courts Martial. When detachments from the Bengal army may be sent on foreign service, or to stations beyond sea, it is obviously necessary that such a power should exist: in such cases it may frequenly be difficult to procure the number of officers at present requisite for the formation of a general native Court Martial. In the acts above referred to, in contemplation of the same difficulty, it is provided, that in Africa, and New South Wales, (in respect of the King's troops,) and in St. Helena (in respect of the Company's troops,) general Courts Martial may consist of any number of officers, not less than five; but no sentence of death is to be passed, unless two-thirds of the officers present, or four, where the court consists of five, shall concur therein. With a view to uniformity in the law martial for Government of the native troops, the following rules are enacted by the Governor General in Council." §. 2. "Whenever a detachment of the Bengal native troops may be on foreign service, or at Prince of Wales' Island, Fort Marlborough, Malacca, or any other part of the British possessions, beyond sea, the Commander in Chief of the forces in Bengal shall have power to issue his warrant to the officer commanding in chief, where such detachment is stationed or serving; authorizing him to convene native general Courts Martial, as occasion may require. The Commander in Chief may also delegate, by his warrant to such commanding officer, either absolutely or under such restriction, as he shall think fit, the power of confirming or directing the revision of the sentence of Courts Martial." §. 3. "A native general Court Martial shall not consist

Section 2. Commander in Chief may issue his warrant to the commanding officers of native detachments on foreign service, or beyond seas, to convene general Courts Martial.

Section 3. Of what number of native

consist of fewer than nine native commissioned officers, subadars, or jemadars, unless such Court Martial be holden by virtue of a warrant from the Commander in Chief, in the situations and under the circumstances mentioned in the preceding section. In cases of general Courts Martial so holden, where the number of nine officers cannot, in the judgment of the officer convening the same, be conveniently assembled, any number of native commissioned officers, subadars, or jemadars, not less than five, shall be competent to form such general Courts Martial, for the trial of native officers or soldiers belonging to such detachments. But no sentence of death shall be passed by such Courts Martial, unless two-thirds of the members, or four, where the court consists of five, shall concur therein."

officers such Courts Martial shall consist, and what number to concur in a sentence of death.

SECTION V.

Restrictions against importation and exportation of Slaves.

THE existence of slavery, as sanctioned by the Hindoo and Mahomedan laws, and therefore tolerated and maintained by the courts of judicature, under the British Government in India, was intimated in a former Volume of this Analysis.* The following remarks

Remarks on Slavery, as established and tolerated under the British Government in India.

* Vol. 1. pages 78 and 279. The following abstract of the Hindoo and Mahomedan laws on the subject of slavery is taken from an official paper written by Mr. H. COLEBROOKE in the year 1812; but, I believe, not entered on the public records.—"The Hindu law fully recognises slavery. It specifies in much detail the various modes by which a person becomes the slave of another; and which are reducible to the following heads: viz. capture in war; voluntary submission to slavery for diverse causes; (as a pecuniary consideration, maintenance during a famine, &c.;) involuntary, for the discharge of debt, or by way of punishment of specific offences; birth, as offspring of a female slave; gift, sale, or other transfer by a former owner; and sale or gift of their offspring by parents. It treats the slave as the absolute property of his master, familiarly speaking of this species of property in association with cattle, under the contemptuous designation of "Bipeds and Quadrupeds." It makes no provision for the protection of the slave from the cruelty and ill treatment of an unfeeling master; nor defines the master's power over the person of his slave; neither prescribing distinct limits to that power, nor declaring it to extend to life or limb. It allows to the slave no right of property, even in his own acquisition, unless by the indulgence of his master. It affords no opening to his redemption and emancipation, (especially if he be a

Extract from Mr. H. COLEBROOKE's treatise on the husbandry and internal commerce of Bengal.

remarks on this subject are contained in a work more than once referred to, in consideration of its authority.* "Slavery is not unknown in Bengal. Throughout some districts, the labours of husbandry are executed chiefly by bond-servants. In certain provinces the ploughmen are mostly slaves of the peasants for whom they labour: but treated by their masters more like hereditary servants, or like mancipated hinds, than like purchased slaves, they labour with cheerful diligence and unforced zeal. In some places, also, the landholders have a claim to the servitude of thousands among the inhabitants of their estates. This claim, which is seldom enforced, and which, in many instances, is become wholly obsolete, is founded on some traditional rights acquired, many generations ago, in a state of society different from the present: and slaves of this description do in fact enjoy every privilege of a freeman, except the name; or, at the worst, they they must be considered as villains attached to the glebe, rather

a slave by birth or purchase, unless by the voluntary manumission of him by his masters; or in the special case of his saving his master's life, when he may demand his freedom and the portion of a son; or in that of a female slave bearing issue to her master, when both she and her offspring are entitled to freedom, if he have not legitimate issue; or in the particular instances of persons enslaved for temporary causes, (as debt, amercement, cohabitation with a slave, and maintenance, in consideration of servitude,) on the cessation of the grounds of slavery, by the discharge of the debt or mulet; discontinuance of the cohabitation; or relinquishment of the maintenance. The Mahomedan law equally acknowledges slavery; originating, however, in fewer sources; namely, capture of infidels in war; birth, as issue of a female slave; to which some authorities (who are chiefly followed) have added, sale of their offspring by parents in a dearth or famine. The property is so absolute and complete, that it is assigned as a reason for subjecting an owner to no worldly punishment or penalty for the murder of his slave: he has of course entire power over his person, being restrained by no provisions of the law adapted to protect the slave from ill treatment. Manumission cannot be exacted from the owner, unless in the case where, for some cause, the slave is already emancipated in part; in which case he is entitled to redeem himself by emancipatory labour, equivalent to the remaining portion of his value. In all other instances emancipation depends wholly on the will of the owner. But manumission of slaves is strongly recommended as a pious act, and the law leans much against the slavery of Mahomedans. A female slave, bearing issue to her master, does not acquire freedom; but gains other privileges, of which the chief is that of not being liable to be sold to another person. Her issue is free; and ranks with other illegitimate, but acknowledged offspring of her master."

* Mr. H. COLEBROOKE's remarks on the husbandry and internal commerce of Bengal, page 124.

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than as bondmen labouring for the sole benefit of their owners. Indeed, throughout India, the relation of master and slave appears to impose the duty of protection and cherishment on the master, as much as that of fidelity and obedience on the slave; and their mutual conduct is consistent with the sense of such an obligation; since it is marked with gentleness and indulgence on the one side, and with zeal and loyalty on the other." In a document of more recent date,* Mr. COLEBROOKE has given the following additional information:—"We find domestic slavery very general among both Hindus and Moslemans. More trusty than hired servants, slaves almost exclusively are employed in the interior of the house for attendance on the members of the family, and in all the most confidential services. Every opulent person, every one raised above the condition of the simplest mediocrity, is provided with household slaves; and from this class chiefly are taken the concubines of Moslemans and Hindus; in regard to whom, it is to be remembered, that concubinage is not among people of those religious an immoral state, but a relation, which both law and custom recognise without reprehension; and its prevalence is liable only to the same objection as polygamy, with which it has a near and almost necessary connexion. In the lower provinces, under this presidency, the employment of slaves in the labors of husbandry is nearly, if not entirely, unknown. In the upper provinces, beginning from Western Behar and Benares, the petty landholders, who are themselves cultivators, are aided in their husbandry by their slaves, whom they very commonly employ as herdsmen and ploughmen: and landholders of a higher order have, in a few instances, the pretensions of masters over a part of their tenants long settled on their estates, and reputed to be descended from persons who were acknowledged slaves of their ancestors. Their claims to the services of these hereditary serfs are nearly obsolete, and scarcely attended with any practical consequences. The serfs pay rent and other dues for the lands which they till, and the pastures on which they graze their herds; and are not distinguished

* The paper referred to in a preceding note, as written in the year 1812.

from the rest of the peasantry, unless by a questionable restriction of the right of removing at choice. But those employed in husbandry by the inferior class of landholders are strictly slaves; and their condition differs from that of household slaves, only as the one is occupied in out door work, and the other in business of the interior of the house. The employment of slaves in handicraft is more rare, but not entirely unknown. It would be difficult to form a computation of the number of slaves throughout the country, or of the proportion borne to the free population. Any steps towards the preparation of an estimate, which should approach to accuracy, would involve inquiries which must excite alarm, and could not but be attended with circumstances offensive to the people. But taking a more general view, it may be stated, that slaves are neither so few as to be of no consideration, nor so numerous as to constitute a notable proportion of the mass of population. The number, which certainly is not relatively great, has been kept up, or to apply language of commerce to this subject, the demand for slaves has been supplied; 1st, by their marriages among themselves or with free persons; 2d, by the sale of free children into slavery within the country; 3d, by importation from abroad, whether by sea or land, previous to the late prohibition of that traffic. Neither the disposition of the people, nor their accustomed mode of treating their slaves, tends to impede the rearing of children by any discouragment to marriages. I of course except the instances of concubines and prostitutes. In other cases a sense of propriety leads very usually to provide a match for the household slave; and the offspring following the condition of the mother, and the child of a female domestic slave being considered to be attached to the family by a stronger tie than the simple relation of slave to a master, no requisite indulgence is wanting to enable the mother to devote due care to the rearing of her progeny. It is not necessary to suppose the number of children, born and reared, to be deficient, for the sake of accounting for the call for a supply from other sources, of foreign importation, and home sale of free children. Opulent persons,

sons, in whose families more slaves may be born than they are desirous of retaining in their employ, do not sell, but emancipate, those whose services they do not require; and persons of reduced circumstances, no longer needing nor able to employ so many domestic slaves as before, are not less unwilling to dispose of slaves by sale, which is a highly discreditable act; but give them their freedom without a price, however acceptable the value might be to them in their actual state of indigence. The manumission of slaves being deemed an act of piety, and an expiation of divers offences, frequently takes place from religious motives, without either of the inducements before described: and slaves are often redeemed by purchase, either expressly for that purpose, or from a less laudable impulse, as attachment to a courtesan or some other cause. The number of slaves continually diminishing, a demand constantly exists for the purchase of them, which is supplied chiefly by the sale of children by their parents, in seasons of scarcity and famine, or in circumstances of individual or peculiar distress. The low price, at which these sales are effected, is an argument that no very urgent demand commonly exists. Neither is there any brisk traffic of slaves, which would be proof of an extensive demand and ample supply. During a famine, or a dearth, parents have been known to sell their children for prices so very inconsiderable, and so little more than nominal, that they may, in frequent instances, have credit for a better motive than that of momentarily relieving their own necessities, namely, the saving of their children's lives by interesting in their preservation persons able to provide nourishment for them. The same feeling is often the motive for selling children, when particular circumstances of distress, instead of a general dearth, disable the parents from supporting them. There is no reason to believe that they are ever sold from mere avarice, and want of natural affection in the parent. The known character of the people, and proved disposition in all the domestic relations, must exempt them from the suspicion of such conduct. But the pressure of want alone compels the sale, whether the immediate impulse be consideration for the child, or

desire

desire of personal relief. So long, therefore, as no established fund or regulated system for the relief of the indigent exists, it does not seem practicable to prevent or restrain the disposal of children by their parents, which is lawful by their own laws. There are two classes of purchasers, however, by whom larger prices are given, than intimated in the general view here taken. The one comprises various religious orders, the members of which purchase children to bring them up and initiate them in the religious order to which they themselves belong. Being restricted in their selection of subjects to the higher casts of the Hindus, they do not readily find persons of the requisite cast willing to part with their children; and being in general opulent from the union of the commercial with the religious profession, they are able to tempt the cupidity of parents by a large pecuniary consideration, and often by a provision for life. The greatness of the reward has been supposed to lead to kidnapping in some instances of this nature, though not frequently, since the purchaser requires to be ascertained of the parentage of the child. The other description of purchasers alluded to consists of the owners of sets of dancing women, who buy female children and instruct them for public exhibition. As they generally become courtesans when they grow up, it might seem to be incumbent on a Government, attentive to the morals of the peoble over whom it rules, to prevent this practice by prohibitory laws. I apprehend, however, that it would not be easy to frame rules, which would not be open to easy evasion. Instead of sale, as of a slave, it is already common to make an engagement for a long term of years. It would be an obvious expedient to shorten the term: it might be going too far to presume the intention of prostitution, and to prohibit all instruction for purposes of exhibition of dances, which the people are very partial to, and which are a regular part of their religious festivals and celebrations."

"THE remaining source of the supply of slaves, was (until lately prohibited by law,) importation both by sea and by land

land. The importation by sea consisted of a very few African slaves, brought by Arab ships to the port of Calcutta. Having been led to make some enquiries into this traffic previous to its abolition, I had reason to be satisfied, that the whole number of slaves imported was very inconsiderable; not exceeding, annually, a hundred of both sexes. I found cause, at the same time, to be convinced, that the means, by which slaves are procured on the Western Coast of Africa for the Arab dealers, who supply Arabia and Persia, and who used to bring the small number mentioned to this port, are not less abominable and nefarious, than those practised on the East Coast of Africa: consisting, for the most part, in the forcible seizure of the slaves, either in predatory war, undertaken for the purpose, or by open robbery, often attended with the murder of the parents. The importation by land was principally from the territories of Nepaul; whence a regular traffic in slaves appears to have been carried on; and occasionally from the western and middle parts of India, whenever a local scarcity of provisions gave a temporary impulse to a trade, which was otherwise in general languid. Although the subject was brought under the notice of this Government, by representations from the local authorities in the Nepaul provinces, it is understood, that the traffic owed its existence to the oppressive administration of those very authorities, which drove the wretched inhabitants of those provinces to the sad resource of selling their children or themselves into slavery, when all other means of meeting the insatiable exactions of their Nepaulese rulers were exhausted. It was, however, stated, that, under cover of a trade which originated in this cause, kidnapping was practiced. And, at all events, it was highly expedient to prohibit the importation altogether, whether it gave occasion to the commission of this offence, or only served to crown the last act of extortion of Nepaulese Governors, from their unhappy subjects. I have not spoken of the exportation of slaves from the British territories; as there is not any cause to believe, that such a trade at present exists. Many years ago a clandestine export by sea to the French Islands was detected; and being immediately prohi-

bited by proclamation, and the first subsequent instance, which was discovered, being prosecuted to punishment, it was entirely suppressed, and no surmise of its revival has since been entertained. Slaves may have been carried out of the country, by land, in attendance on their masters, or under other peculiar circumstances; and possibly for sale, when a scarcity has existed within the territories. But the instances must have been few and rare, and little apprehension can be entertained of the recurrence of it as a traffic. At all events, should such apprehensions be felt, or should the import of slaves by land not be entirely stopped by the regulation and penalties already enacted, it will be easy to enforce the prohibition, by severe penalties, which need not however be carried to the length of those which the late act of Parliament has provided to enforce the abolition of the traffic by sea.* Adverting

* The Act of Parliament here referred to, (and the enactment of which, with its extension to India, induced Mr. COLEBROOKE to review the state of slavery in this country,) is the 51st Geo. III. Cap. 23, viz. "An act for rendering more effectual an act made in the 47th year of his Majesty's reign, intituled *An act for the abolition of the slave trade.*" By the first section of this statute, it is enacted, "That if any subject or subjects of His Majesty, or if any person or persons residing or being within this United Kingdom, or in any of the Islands, colonies, dominions, forts, settlements, factories, or territories, now or hereafter belonging thereto, or being in His Majesty's occupation or possession, or under the Government of the United Company of merchants trading to the East Indies, shall, from and after the first day of June next, (viz. 1811; but extended to the 1st January 1812, for places to the East of the Cape of Good Hope,) by him or themselves, or by his or their factors or agents, or otherwise, howsoever, carry away or remove, or aid or assist in the carrying away or removing, as a slave or slaves, or for the purpose of being sold, transferred, used, or dealt with as a slave or slaves, any person or persons whatsoever, from any part of Africa, or from any other country, territory, or place, whatsoever, either immediately, or by transhipment at sea, or otherwise, directly or indirectly; or shall import or bring, or aid or assist in the importing or bringing, into any Island, colony, country, territory, or place, whatsoever, any such person or persons, as aforesaid, for the purpose aforesaid; or shall knowingly and wilfully ship, embark, receive, detain, or confine on board any ship, vessel, or boat, any such person or persons, as aforesaid, for the purpose of his, her, or their being so carried away, or removed, imported or brought, as aforesaid; or of being sold, transferred, used, or dealt with as a slave or slaves; or shall knowingly and wilfully use or employ, or permit to be used or employed, or let or take to freight, or on hire, any ship or vessel, to be used or employed in carrying away or removing, importing or bringing, or for the purpose of carrying away or removing, importing or bringing, as aforesaid, any such person or persons, as a slave or slaves, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves; or

ing to the known object and design of that enactment, we have considered its provisions to be limited to the trade by sea: and I trust such will be the construction, which will be put on it by magistrates and courts of justice, should any question on it be raised, and the case be brought before them. I cannot, however, but think, that the terms of the act are very general; and rigidly construed, may bear a different interpretation. It declares the removal of any person (and dealing with him as a slave) from one country to another, to be felony, punishable by transportation; and does not apply to the East Indies the exception which it allows in the West, for the removal of a person, already a slave, from one part of the West Indies to another. Now this exception is not less needed in these seas, than in those of the Western hemisphere. For, not to speak at present of the removal of slaves from one province to another on the continent, the case must continually recur of a British subject, or inhabitant of the British territories, a native, probably, of these countries, embarking at one port for another on the Indian continent, or proceeding from one Island to another in the Eastern archipelago, attended by a domestic slave. As the law now stands, there can be no doubt, that, in every such instance, the individual unwillingly subjects himself to the enormous penalty of felony, under an act passed in a distant country, without any preliminary discussion, as it respects this; without any previous intimation that slavery or the traffic of slaves was to be here abolished; and without even an intention on the part of the

or shall fit out or cause to be fitted out, or shall take the charge or command of, or navigate, or enter and embark on board, any such ship or vessel as master or captain, mate, supercargo, or surgeon, knowing that such ship or vessel is actually employed, or is, in the same voyage for which he or they shall so enter and embark on board; intended to be employed, in carrying or removing, importing or bringing, as aforesaid, any such person or persons, as or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves; then and in every such case, the person or persons, so offending, and their councellors, aiders, and abettors, shall be, and are hereby declared to be, *felons*; and shall be transported beyond seas, for a term not exceeding fourteen years, or shall be confined and kept to hard labour, for a term not exceeding five years, nor less than three years, at the direction of the court, before whom such offender or offenders shall be tried and convicted."

legislature

legislature to impose any penalty or punishment, much less so severe a one, for the act now specified."

Necessity of a legislative enactment, to explain and modify parts of the Statute 51, Geo. III, cap. 23; as applicable to India, and the Eastern seas.

Mr. Colebrooke concluded this part of his remarks, with a suggestion of the necessity of "an application to the legislature, for an extension, to this country, of the exception already provided in regard to the West Indies;" and it cannot be doubted that a legislative enactment to this effect, as well as to explain the whole of the provisions of the Statute 51, Geo. III. chap. 23, as meant to have operation in India and the Eastern seas, will be hereafter received and promulgated. In the mean time, the measures adopted by the supreme local Government, for the purpose of giving effect to this statute, and the construction given to it, as applicable only to the importation or exportation of slaves by sea, will be best exhibited by the following extract from the resolutions of the Honorable the Vice President in Council, recorded on the 9th September 1817; and after receiving the concurrence of His Excellency the Governor General, officially communicated to the Court of Nizamut Adawlut on the 14th October 1817.

Extract from the resolutions of Government relative to the statute abovementioned; and the construction given to it, as applicable only to the importation or exportation of slaves by sea.

"With reference to the important objects and highly penal provisions of the statute in question, Government judged it proper to direct, that a copy of it should be published for general information in the Calcutta Gazette; and that copies of it should be officially forwarded to the different independent and subordinate Governments in this country. On the same principle, copies of the statute were forwarded to the magistrates, stationed at the sea-ports, immediately dependant on this presidency; in order, that in their capacity of justice of the peace, they might aid in enforcing the provisions of the statute. It was not deemed necessary to forward copies of the act to the other magistrates; as the Governor General in Council did not consider its provisions to be applicable to the importation or removal of slaves by land. The Governments of Fort St. George and Bombay, of Java, of Prince of Wales' Island, of the Mauritius, and of Ceylon, as well as the Residents at the Malaccas and Fort Marlborough, were informed

of

of the measures above adverted to, and of the construction which the Supreme Government had annexed to the provisions of the statute, viz that they could only be considered applicable to the importation of slaves by sea. A regulation had been already passed by the Governor General in Council, for preventing the importation of slaves from foreign countries, to have effect within the territories immediately subordinate to the presidency of Fort William; and the rules contained in that regulation having proved fully effectual in preventing the importation of slaves by land, similar provisions were, at the suggestion of the Governor General in Council, subsequently enacted for the same purpose within the territories immediately subordinate to the Governments of Fort St. George and Bombay. The foregoing general recapitulation sufficiently explains the measures hitherto adopted by the Supreme Government, with reference to the provisions of the act of the 51st of Geo. III. chap. 23. The first question adverted to in the documents now under consideration, as stated in the 1st paragraph of the letter from the Chief Secretary to Government at Bombay, relates "to the application of the Acts of Parliament for the abolition of the slave trade to domestic slaves, and the property of individuals in them. Such slavery being thrown and legalized under the laws of both the Hindoos and Moosulmans, according to whose codes the courts are bound to administer justice." On this point the Vice President in Council observes, that none of the provisions of the Acts of Parliament passed for the abolition of the slave trade, in any manner affect, or profess to affect, the relation between master and slave, wherever that relation may exist by law. Whatever, therefore, was the law, according to the Mahomedan and Hindoo codes, (for those over whom they extend,) on the subject of domestic slavery, before the passing of the act of the 51st Geo. III. chap. 23, continues to be the law still; more especially as those codes have been distinctly recognized, and ordered to be observed, by Parliament. At the same time, it is not credible that any intention existed to abrogate those codes, without reference to the established laws and u-

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sages of this country; and without repealing the Acts of Parliament, by which the observance of them is guaranteed to the natives. The native subjects of the British Government, residing in the territories subordinate to the several presidencies, have, in fact, the same authority over their slaves, and the same property in them, that they would have had, if the act in question had never been passed: and the several zillah and provincial courts are bound to receive and determine all questions of that nature, which are respectively cognizable by them under the existing regulation. The other points adverted to in the documents now under consideration, relate to the conduct which should be observed on the occasion of applications being made by the subjects or Governments of neighbouring States, with whom we are in amity, for the restoration of slaves, who have taken refuge within the Company's territories. On this point it may be remarked, that the construction, which has been uniformly given by the Supreme Government to the act of the 51st George III. chap. 23. viz. that it was only intended to apply to the importation or removal of slaves by sea, would not involve any alteration in the course of proceedings hitherto adopted in similar cases. A slave, by entering the Company's territories, does not become free: nor can he, who was lawfully a slave, emancipate himself by running away from one country, where slavery is lawful, to another, where it is equally lawful. The property in the slave still continues in the master; and the master has the same right to have it restored to him, that any native subject of our territories could have, supposing that right to be established in the mode prescribed by the local laws and regulations. The Vice President in Council observes, that some of the terms used in the preamble of the 51st of Geo. III. chap. 23, are of a very comprehensive nature; such indeed as, on the first view, might lead to the inference, that the bringing of slaves by land into the territories of the Honorable Company, or the removal of them by land from those territories, were acts included within the penalties of the statute in question; and it may be convenient, therefore, in

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this place, to state generally the grounds on which Government were led to consider the provisions of the act, (so far as they apply to the territories subject to the Government of the Honorable the East India Company) to extend merely to the importation or removal of slaves by sea. The evil, which specifically called for the interposition of the legislature on the occasion of passing the act of the 47th Geo. III. chap. 36, was the African slave trade; and the chief object of the subsequent act of the 51st Geo. III. chap. 23, was avowedly the adoption of measures to prevent the daring violations of the former law; or, in other words, to render more effectual the provisions of that law. This, however, is evidently not the exclusive object of the latter act. The legislature was probably aware that a traffic was carried on in slaves, by importing them by sea from the eastern Coast of Africa, from Madagascar, and from the Eastern Islands, into the Islands and territories in the East Indies, subject to His Majesty or to the Honorable the East India Company; and it may reasonably be supposed, that, in using the comprehensive terms employed in the latter act, the legislature meant to provide for the effectual abolition of that traffic; which was, in fact, of a nature and tendency scarcely less objectionable, than the trade which had been carried on between the Western Coast of Africa and the West India Islands. Had the provisions of the act been intended to apply to the importation or removal of slaves by land in the Honorable Company's territories, on the continent of India, it cannot be supposed that the legislature would have confined the operation of the 4th Section of that act, exclusively, to the West Indies; that it would have subjected, to the punishment of transportation, whole nations, amongst whom domestic slavery had immemorially existed, under the sanction of laws recognized by Parliament; and this without any reference to those established laws and usages; and without repealing the Acts of Parliament, by which the observance of them is guaranteed to the natives; that it would, in short, have subjected the Hindoo and Mahomedan inhabitants of the British territories in the East Indies

to

to the severe punishment of transportation, for acts which the 4th Section of the statute renders legal in the West Indies. But, if there could exist any reasonable doubt with regard to the construction of the act, which this Government entertains, upon a general consideration of its provisions, taken in connection with each other, and with all the former acts and resolutions referred to in it; it would be difficult to reconcile any other construction of the act with the letter of the 6th Clause of the act. That clause prescribes the course to be pursued, in bringing to trial offenders against the act. The admiralty jurisdiction vested in His Majesty's courts of justice, at the several presidencies in India, would enable those courts to take cognizance of all offences relating to the importation or removal of slaves by sea, contrary to the act; but offences against the act, which may not be cognizable by the court of admiralty, can only be tried in England, in the mode pointed out by the 6th Clause of the 51st Geo. III. chap. 23. If, therefore, this act be construed to extend to the removal or importation of slaves by land, in the territories subject to the East India Company, every native, carrying or removing a slave from one part of those territories to another, is liable to be sent to England, to be tried for felony, in the mode prescribed by certain acts of Henry the VIII. and William the III. for the suppression of piracy. It is unnecessary to enlarge further on the difficulties which must arise from any such construction of the act. The powers vested by law in the Governments of the several presidencies in India will enable them to frame such legislative enactments, as may, from time to time, be found necessary, with a view to the correction of any abuses, which may be found to prevail in the existing system of domestic slavery; or to the augmentation of the penalties already prescribed by the regulations, for preventing the importation of slaves by land from foreign countries, and the sale of such slaves in the territories immediately dependant on the several presidencies."

It remains to state the measures which have been adopted at this

this presidency, to prevent the exportation of natives of India as slaves; or the importation of slaves for sale, or otherwise. A proclamation, to the following effect, was issued by the Governor General in Council, on the 22d July 1789. "Whereas information, the truth of which cannot be doubted, has been received by the Governor General in Council, that many natives, and some Europeans, in opposition to the laws and ordinances of this country, and the dictates of humanity, have been, for a long time, in the practice of purchasing or collecting natives of both sexes, children as well as adults, for the purpose of exporting them for sale, as slaves, in different parts of India, or elsewhere; and whereas the Governor General in Council is determined to exert, to the utmost extent, the power and authority vested in him, in order to prevent such practice in future; and to deter, by the most exemplary punishment, those persons who are not to be otherwise restrained from committing the offence: his Lordship hereby declares, that all and every person or persons, subject to the jurisdiction of the Supreme Court, or, in any respect, to the authority of this Government, who shall in future be concerned, directly or indirectly, in the abovementioned inhuman and detestable traffic, shall be prosecuted, with the utmost rigour, in the Supreme Court, at the expense of the Company; and, if British born subjects, shall be forthwith ordered to Europe; or if such person or persons be not subject to the court's jurisdiction, he or they, upon information being given to the magistrate of the place or district, in which the offence shall have been committed, shall be apprehended by him, and kept in confinement, to be dealt with according to the laws of the country; and that no one may plead ignorance hereof, the superintendents, in the several parts of the country, are hereby required to give immediate notice of this proclamation, in such manner, as shall render the knowledge of it universal to persons of all descriptions, and to repeat the same on the first day of January, in every year. They are further directed to pay the strictest attention to the regulations contained in it, and to take the most active steps, in their power, to enforce them.

Proclamation issued by the Governor General in Council on the 22d July 1789. forbidding, under penalties, the exportation of natives of India to be sold as slaves; and the purchasing or collecting children or adults of either sex for this purpose.

And that all persons offending against this proclamation may be brought to punishment for the same, and the unhappy sufferers rescued from misery, a reward of one hundred Sicca Rupees is hereby offered for the discovery of every such offender, to be paid on his conviction before the Supreme Court of Judicature, or before the magistrate of the district; and of fifty Rupees for each person, of either sex, who shall be delivered from slavery, or illegal confinement, in consequence of such discovery. The money will be paid to the informer or informers, on his or their application to the Secretary of Government, and presenting to him a certificate of the conviction of the person, or persons, committing the offence, of which such informer or informers made discovery. The Governor General in Council further recommends to British commercial houses, and private merchants, to assist, as far as depends upon them, in carrying these regulations into effect, by taking the most effectual means, in their power, to prevent the commanders of their ships or vessels, or of ships or vessels consigned to them, or otherwise placed under their directions, from carrying away natives of this country, in order to sell them for slaves. The Master Attendant of this port is hereby forbidden to grant, in future, an English pilot to any ship or vessel, the commander of which shall not have previously declared, upon oath, that there are not then on board, and that he will not, during his continuance in the river, consent to receive on board any natives, to be exported as slaves, with an intent to dispose of them at some foreign place; or whom he (the commander) has any reason to imagine will be disposed of as such, after they leave this country. And the Master Attendant is hereby directed to give notice to all the native pilots, that, if they should pilot out any vessel, having on board natives of this description, knowing or believing them to be such, the privilege of piloting will be taken from them for ever, and their names and offence registered. And that no one may plead ignorance of this order, it is hereby directed, that it be placed constantly in view at the Bankshall, in the English and country languages." The above proclamation

The above proclamation pub-

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was published by the resident at Benares, in that province, on the 7th August 1789, and the substance of it included in Section 74, Regulation 22, 1795.

lished in Benares, and substance of it included in Section 74, Regulation 22, 1795.

The following provisions *for preventing the importation of slaves from foreign countries, and the sale of such slaves in the territories immediately dependent on the presidency of Fort William*, were enacted, to be in force throughout the whole of these territories, by Regulation 10, 1811. "Whereas instances have occurred of the importation of slaves from foreign countries into the British territories; and whereas such traffic is inconsistent with the dictates of humanity, and with the principles by which the administration of this country is conducted; the following rules have been enacted." 2. "The importation of slaves, whether by land or by sea, into the places immediately dependent on the presidency of Fort William, is hereby strictly prohibited; and any person infringing this prohibition, shall be liable to be prosecuted and punished for the offence by the courts of criminal judicature." 3. "Any person who may be convicted of the offence of importing slaves into the British territories subsequently to the promulgation of this regulation, shall be sentenced to imprisonment for the period of six months, and to pay a fine to Government, according to his circumstances in life, not exceeding, however, the sum of Rupees two hundred; commutable, if not duly discharged, to imprisonment for the further period of six months, on the expiration of the former part of the sentence." 4. "Persons imported as slaves into the British territories, shall be liable to be discharged, or sent back to their friends and connexions, in the country from which they may have been imported, according, as may appear most advisable to the magistrate, by whom the decision on the case may be passed." 5. *First.* "For the more effectual prevention of the importation of slaves at the port of Calcutta, captains or supercargoes of vessels, with the exception of the Honorable Company's ships importing at Calcutta, shall, previously to being permitted to land any part of their cargo

General provisions, for all the provinces, in Regulation 10, 1811, for preventing the importation of slaves from foreign countries, and the sale of such slaves in the territories under this presidency. Preamble.

Section 2. The importation of slaves, by land or by sea, prohibited.

Section 3. Penalties for a breach of the foregoing rule.

Section 4. Persons imported as slaves shall be discharged or sent back.

Section 5. Captains of certain ships importing at Calcutta, shall, previously to landing their cargoes, execute a penalty bond, not to sell slaves.

cargo or goods, execute a bond, rendering themselves liable to the payment of a penalty of Rupees five thousand, in the event of their disposing of any persons, as slaves." *Second.* "The bond mentioned in the preceding clause shall be taken by one of His Majesty's Justices of the Peace, acting in and for the town of Calcutta, who will, of course, cause it to be executed in due form." *Third.* "It shall be the duty of the collector of Government customs at Calcutta to ascertain that the prescribed bond has been executed, previously to permitting any part of the cargo or goods of any vessel (the Honorable Company's ships excepted,) to be landed." *Fourth.* "The following is the form of the bond, to be taken in the cases above stated;—

By whom such bond is to be taken.

The collector of Government customs to ascertain that such bond has been executed, previously to permitting the cargo to be landed.

Form of the bond.

KNOW ALL MEN by these presents, that I ———, Captain of the ———, now lying and being in the river Hooghly, in Bengal, am held and firmly bound unto the United Company of merchants of England, trading to the East Indies, in the sum of five thousand Sicca Rupees, of lawful money of Bengal, to be paid to the said United Company, their certain attorney, successors or assigns; for which payment to be well and truly made, I bind myself, my heirs, executors and administrators, firmly by these presents; sealed with my seal, dated the ——— day of ———, in the year of our Lord one thousand eight hundred and ——.

THE CONDITION of this obligation is such, that if the above bounden ——— has made a just and true report, in writing, to the Custom Master of Calcutta, of the number of persons, male and female, imported by him into Bengal, in and on board the abovementioned ———; and if the said ——— has not, since his last arrival in Bengal, and shall not, whilst he the said ——— or the said ———, shall be or remain in Bengal, land, for the purpose of selling, giving away, or otherwise disposing of any person or persons imported on board the said ———, as and for a slave or slaves; and if the said ——— has not sold, given away, or disposed of, and shall not in Bengal, or in any of the countries of or under the management of the said United Company, their Governors or servants in India, sell, give away, or dispose of, any person or

persons,

persons, male or female, imported on board the said ———, on this her last arrival in Bengal, as, and for a slave or slaves, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

Sealed and Delivered (where no stamps are used) in the presence of

How far the provisions of Reg. 10, 1811, are superceded by the Statute 51, Geo. III. chap. 23.

THE importation of slaves *by sea*, into any part of the British territories in India, being declared felony, by the Statute 51, Geo. III. chap. 23; *so much* of the foregoing regulation as relates to the punishment of this offence, is, of course, superseded. But the provisions of it are still in force with respect to the importation of slaves by land; though it must be added, that the court of Nizamut Adawlut, "adverting to the title and preamble of Regulation 10, 1811, and to the bond required by Section 5," have construed the rules contained in it, "to be applicable only to the importation of slaves, for the purpose of being sold, given away, or otherwise disposed of."* It has indeed been since declared by Government,† "that the intent of the enactment was to prohibit the importation of slaves altogether; and not merely the importation of slaves for the purpose of being sold, given away, or otherwise disposed of." The court of Nizamut Adawlut, (who have long had under their consideration the draught of a regulation proposed by Mr. J. RICHARDSON, judge and magistrate of Boondelkhund, *for checking and reforming the abuses that have crept into practise, and at present exist with respect to slavery,*) have also been desired by Government, in preparing a new regulation regarding slavery, to "take into their consideration the expediency of requiring, that the future purchase or transfer of slaves shall be regularly registered, and that any

A regulation for preventing abuses, in cases of slavery, under the consideration of the Nizamut Adawlut; and proposed registry of the future purchase or transfer of slaves.

* See printed collection of the circular orders of the Nizamut Aawlut, No. 2, under the head of *Slaves*. See also No. 1, under the same head, declaring the inhuman practise of making eunuchs of young slaves to be criminal, and punishable by the Mahomedan law.

† In a letter from the Secretary in the Judicial Department, to the Register of the Nizamut Adawlut, dated 14th February 1817.

breach of the rules, which may be framed for that purpose, shall entitle the slave to demand and obtain his freedom."* Whilst, therefore, an adherence to the established principles of policy, by which the legislation for British India is now wisely and justly influenced, may render it necessary to maintain the existing laws respecting master and slave, and the legal rights of both;† it may be confidently expected, that effectual measures will be adopted to prevent an augmentation of the number of slaves, within the British provinces, by illegal means. It may also be hoped, that the intended regulation will amply secure those who are deprived of the common rights of mankind, and *legally considered as the property of their fellow men*, from unlawful and cruel treatment; or entitle them to emancipation, when it may take place, and be judicially established. Mr. COLEBROOKE, whose sentiments must have considerable weight on every question relative to the laws and customs of the natives of India, adds the following observations upon this subject, in the paper which has been already cited; and with them I shall conclude the present section.

Beneficial consequences to be expected from this Regulation, in preventing an exclusion of slavery by illegal means; as well as in securing those who must remain slaves under the British Government from maltreatment.

This section concluded with a further extract from Mr. COLEBROOKE's minute on the subject, written in 1812.

"I conceive that there is no occasion for abolishing slavery, or for preventing enslavement, or for prohibiting the sale of actual slaves, within the limits of the British territories in India. Neither the means, by which free persons (for the most part children in a tender age) are rendered slaves, nor the frequency of the occurrence in an objectionable form, nor the common treatment of those who are already slaves by their masters, is such as to call for the interposition of legislative authority in a strong form. I trust not to be considered an advocate for slavery, nor indifferent

* Letter from Secretary in the Judicial Department, dated 24th May 1816.

† The court of Nizamut Adawlut, in their resolutions, under date the 12th June 1816, upon a report from a judge of circuit, who had suggested the abolition of slavery, observed, that "they fully participate the sentiments expressed by Mr. LEYCESTER, in abhorrence of hereditary slavery; and earnestly wish it could be discontinued, with regard to all children born under the British protection. But whilst it is allowed to remain, with respect to the progeny of existing slaves, born under the British Government in the West Indies, and South Africa, the abolition of it, on general principles of justice and humanity, could not, the court apprehend, be consistently proposed for India, where it has, from time immemorial, been sanctioned by the laws and usages of the country; and where, it may be added, the state of slavery is not so injurious to the objects of it, as in other countries, where it is still maintained."

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to the miseries incident to the most degraded condition in human society, when I observe, that, in this country, slaves are in general treated with gentleness and indulgence. The slave is a favorite and confidential servant, rather than an abject drudge; and is as often held superior to the hireling in his master's estimation and his own, as placed beneath him in the scale of employment and of comforts. The mildness and equanimity of the Indian's temper (or his apathy and slowness, if this better describe the general disposition of the people) contribute to ensure good treatment to the slave. I should, however, only demonstrate unacquaintance with the human character, if I affirmed this to prevail universally, without any exception. I cannot doubt, that bad temper and dispositions sometimes constitute a harsh, severe, and even cruel master. Nor have I been without occasions of being convinced, that such characters are to be found among the owners of slaves. But although the Hindoo and Mohammedan laws have not provided for the protection of the slave from the barbarity of an inhuman master, the regulations passed by British authority have done so, by expressly annulling the exemption from *kisas*, or retaliation for murder, in the case of a slave slain by his master. Since the period (nearly fourteen years ago,) when that regulation,* was enacted, slaves have not been considered as out of the protection of the law, either in case of murder, or of barbarous usage; and instances have occurred of recourse to the officers of police, for redress against the cruelty of a master, in cases falling short of that extremity. And it might, perhaps, be expedient, upon a future occasion of enacting rules bearing relation to the subject of slavery, to provide specifically for the interposition of the magistrate in an ascertained case of barbarous treatment of a slave; and adjudge his emancipation, with further penalties against his owner, if the case be heinous.†

* Regulation 8, 1799, "for certain modifications of the Mahomedan law in cases of murder."

† The Court of Nizamut Adawlut have already, in one instance, made the liberation of a female slave, who had been cruelly treated by her mistress, part of the sentence against the latter. See trial of *Nujoom Con Nisa*, No. 67, of 1805, in the printed *Reports of criminal cases adjudged by the Court of Nizamut Adawlut.*

SECTION

SECTION VI.

Rules to be observed on the discovery of hidden Treasure.

Proclamation issued on the 3d October 1777.

THE right of Government to hidden treasure having been found productive of oppression to individuals, without yielding any public advantage; a proclamation, in the following terms, was issued by order of the Governor General and Council, on the 3d October 1777. "The right which Government possesses to hidden treasure, whenever it may be discovered, having been productive of very great oppressions; the Governor General and Council hereby declare, that, for the future, all hidden treasure shall be the property of those who may discover it."

Resolution of Government passed on the 16th November 1816.

On the 16th November 1816, the Governor General in Council, adverting to the embarrassment that might arise from the unqualified terms of the above proclamation, in the event of treasure, to a very large amount, being discovered by individuals, resolved to limit the future opperation of it to cases, in which the treasure found should not exceed a lack of Rupees; and that hidden treasure, exceeding that amount, of which no owner might be ascertained, should be at the disposal of Government.

Reasons for enacting a regulation concerning hidden treasure.

It appearing, however, from a reference to the law officers of the court of Sudder Dewanny Adawlut, that the provisions of the Mahomedan and Hindoo laws, relative to hidden treasure, differed materially from each other,* and it being deemed expedient, that an uniform principle should

* The following is a translation of the futwa delivered by the Mahomedan law officers on the occasion referred to.

1. *If the treasure bear a Mussulman impression.*

"Buried treasure being found under ground in a Mahomedan country, and bearing a Mussulman impression, such as the *Kulmah* (or Creed,) or a verse from the Coran, or the name of a Mussulman King, is subject to the law of *lookta*, or trove. The definition of *lookta*, is *the taking up of a thing thrown down*. It is a rule, with regard to lookta property, that the finder advertise it in the place where it was found; and in places of public resort; until he believes that no claimant will appear. Some have asserted that the period of advertisement is one year. If, during this time, any one come forward, define the quality, number, and tokens of the property, and adduce evidence to establish his proprietary right therein, it is incumbent on the finder to deliver the trove to him (the claimant); and in the event of his objecting to delivery, notwithstanding these circumstances, the magistrate will compel him. If the claimant

should be established; and rules prescribed for the guidance of persons by whom hidden treasure might be discovered; the following

ant should merely describe the quality, number, and tokens, without establishing his right to the property; the finder may take security from him, and make delivery; but no compulsion is to be used towards him in this instance. If, in the abovementioned space of time, the property be not claimed, the finder, being in indigent circumstances, is at liberty to convert it to his own use. If the finder of the trove be a rich person, he must bestow it in alms upon the poor; although the paupers may be his parents, children, or wives."

2. *If the treasure bear an impression not Mussulman.*

"If the buried treasure bear any other than a Mussulman impression, such as the image of an idol, or the name of a King, not of the Mussulman faith, the King takes a fifth of it; whether it be found on public ground, as a forest, or a mountain; whether on appropriated land, on a common, or in a house, provided the owner of the soil does not assert that he placed it there. This happens also, whether the finder be Mussulman or a Zimmee, old or young. The finder obtains the remaining four-fifths, in the case of the trove being found in lands which are common. If it be found on appropriated lands, the owner of which does not assert that he placed it there, the finder is in this case also entitled to four fifths, according to ABOO YOOSUF. But ABOO HANEEFA and MAHOMMED, on the other hand, allege, that the remaining four-fifths go to him to whom that land was granted after the subjugation of the country by the faithful; or failing him, to his heirs. IMAM SUDROOL ISLAM ABOO YOOSUF says, that in the event of his heirs being unknown, the four-fifths escheat to the public treasury. The authors of the *Futih ool Qudeer*, and the *Doori Mokhtar*, also give preference to his opinion. According to SHUMSOOL AIMA, in the event of the original grantee, or his heirs, being unknown, the share abovementioned goes to the first Mussulman proprietor, that can be discovered, of the land on which the trove was found; and failing him, to his heirs. Should they be unknown, it escheats to the public treasury. This also is the opinion of the author of the *Hedaya*, and many other doctors. The right of the original grantee and his heirs, or of the first known Mussulman proprietor and his heirs, does not lapse in consequence of the lands passing from one person to another, by means of any legal title, such as sale, gift, &c. It is the universally received opinion, that when treasure, bearing any other than a Mussulman impression, is found in appropriated land, and the proprietor of such land lays claim to the trove, declaring that it was deposited there by himself; his declaration is to be credited. The above rules apply to the case of an alien, or protected stranger, who has lifted a trove; having first obtained the permission of the magistrate, who will take the whole property from such persons, on failure of that condition. If the buried treasure be of such a nature as that the remaining four fifths will not put the finder into opulent circumstances, he may apply the other fifth also to his own use, or to that of his parents and children."

3. *If it be doubtful, whether the impression be Mussulman or not.*

"If the treasure be doubtful; that is to say, if there be no impression on it by which it may be ascertained whether it be Mussulman money, or not; then, according to the received opinion, it is to be considered as not being Mussulman money."

4.

Provisions of Regulation 5, 1817.

lowing regulation was enacted on the 28th February 1817; being Regulation 5, of that year, "*for declaring the rights of Government*

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4. *General rule respecting Treasure cast up from the Sea.*

"The author of the *Mosheet* says, that it is to be considered as *Lookta* property. Treasure cast up from the sea appertains exclusively to the finder."

The following exposition of the Hindoo law of treasure trove was given by the pundits of the Sudder Dewanny Adawlut:—

1. *Different opinions as to the share of the King in Treasure found by a subject, other than a Brahmen.*

"According to Menu, gold, or other treasure, which has been long buried in the earth, is called *Needee* (hoard;) and the King is entitled to half such treasure, when found by any other than himself, (except by a learned Brahmen;) and likewise to half of the produce of mines of precious minerals. YAJNYAVULKA's opinion on the subject is that, "In case of a hoard being discovered by any other person than a Brahmen (i. e. by a Kshatreya, &c.) the King, having given a sixth part thereof to the finder, may take the rest himself. VASISHTA's opinion is similar to the above, as appears from this text, "Wealth found, to which there is no owner forth coming, let the King take; giving a sixth part thereof to the finder. GOUTAMA's opinion is that the King has a right to the whole of treasure found, except such as is discovered by a Brahmen; the finder obtaining a trifle. VISHNU gives it as his opinion, that "In case of a Kshatreya finding a needee, (or treasure,) he must give the King a fourth part; the Brahmens a like share; and keep the remaining half himself. If discovered by a Vaisya, he must give the King a fourth; one half to the Brahmens; and retain a quarter himself. If found by a Sudra, it is to be divided into twelve shares; 5 of which are to be given to the King; 2 to the Brahmens; and 5 to be retained by the finder."

2. *Which of the above authorities is to be preferred.*

"As no law is considered valid, which is in opposition to the doctrine of Menu, his opinion on this subject is decisive. Wherefore the King is entitled to half of such treasure found."

3. *The law, in case of a learned Brahmen's finding Treasure.*

"It is the general opinion, that a learned Brahmen, finding treasure, has a right to the whole; as appears from the following texts. *Menu.*—"A learned Brahmen, having found a treasure formerly hidden, may take it without any deduction, since he is lord of all." *Yogeeswara.*—"Let a learned Brahmen take it without deduction, for he is lord of all." *Goutama.*—Treasure found by a Brahmen, who is performer of the six prescribed duties, does not accrue even in part to the King." *Vishnu.*—"Let a learned Brahmen, finding a treasure, take it for himself."

4. *Law in case of the King himself being the finder.*

"If the Sovereign himself discover a treasure, he must give one-half to the Brahmens, and retain the other. Proofs, the texts of Menu, Yajnyavulkya, and Vishnu."

5. *In case of the owner appearing, what is the King's share.*

"An owner of trove treasure, who proves his right thereto, must have it consigned to him; the King taking a sixth or twelfth part, according as the owner may be virtuous, or otherwise."

ment and of individuals, with respect to hidden treasure; and for prescribing the rules to be observed on discovery of such treasure.

§. 2. "Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the territory subject to this presidency; and after due notification, the owner thereof may not be discoverable; such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount, or value, the sum of one lack of Sicca Rupees; and provided the finder or finders shall have conformed to the rules prescribed in this regulation." §. 3. "Whenever any person may find hidden treasure, of the description stated in the foregoing section, he shall give immediate notice thereof to the judge of the zillah, or city, in which the treasure may have been found; and shall, at the same time, deposit the treasure in the zillah or city court, with an exact inventory thereof." §. 4. "The zillah or city judge, receiving a deposit as above directed, shall return a receipt for the treasure deposited, after causing the same to be carefully compared with the inventory; and shall issue a public notification in the current languages of the country; to be published and affixed in his own cutcherry, and in the cutcherry of the collector of the district, requiring all persons who may have any claim of right to the treasure in deposit, to attend in person, or by vakeel, and prove their title thereto, within six months from the date of the notice." §. 5. "It shall be the duty of the collectors of land revenue, acting under the instructions of the Board of Commissioners, or the com-

Section 2. Hidden treasure under what circumstances and conditions to become the property of the finder.

Section 3. The finder how to proceed on the discovery of hidden treasure.

Duty of the zillah or city judges in such cases.

Notification to be issued, and period allowed to claimants to bring forward their claims.

Section 5. Collectors of land revenue to bring forward any claim of right which

6. *A finder to represent his discovery to the King.*

"Every person, finding a deposit under ground, must make a representation of the same to the King."

7. *A false claimant of found Treasure how punishable.*

"A person declaring himself to be the owner of a treasure found, which, in fact, belongs to another, is to be punished by the King, by fine, &c."

8. *Penalty of concealing information of Treasure found.*

"Whoever, finding a treasure, omits giving information of it to the King; and the King gains intelligence thereof; he is to be made to restore the whole treasure; and likewise to be fined in proportion to his ability."

missioner

Government may appear to possess to such treasure.

missioner in Behar and Benares, or the Board of Revenue, to bring forward, and to support, in conformity with the foregoing provision, any claim of right, which Government may appear to possess to such treasure. In the event of any claim of right being preferred either on the part of individuals or of Government, pursuant to the prescribed notification, the judge shall institute a summary inquiry into the claim preferred; and if the title of Government or other person so claiming the treasure in deposit, or any part thereof, be clearly established, he shall adjudge the same accordingly; subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it, as may, in each case, appear just and reasonable."

Summary inquiry to be instituted by the judges of zillah and city courts.

How judgment to be awarded by the judge.

Section 6. What judgment to be passed by the judge in cases in which no claim shall be preferred either by Government or by individuals, and the amount may not exceed one lack of Sicca Rupees.

§. 6. "If no claim of right be preferred, either by Government or by an individual, within the period limited by the notification directed in Section 4, of this regulation; or if the claim or claims so preferred, shall not, on a summary inquiry, appear to be well founded; and the amount or value of the hidden treasure found, at the same time, or in the same place, shall not exceed one lack of Sicca Rupees; the zillah or city judge shall adjudge the same to the person or persons who may have discovered the treasure, and deposited it in the zillah or city court, as required by Section 2; subject only to the actual expense which may have been incurred in adopting the measure prescribed by this regulation."

Section 7. Decision to be passed by the judge in cases in which the amount of treasure shall exceed one lack of Sicca Rupees, and no claim of right thereto be established.

§. 7. "If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lack of Sicca Rupees, and no claim of right thereto be established, judgment shall be given, according to the preceding section, in favor of the person or persons who may have discovered and deposited the treasure, to the amount of one lack of Sicca Rupees; and the excess above that sum shall be declared at the disposal of Government."

Section 8. Persons discovering hidden treasure, who shall neglect to give due notice within one month, shall be considered to have forfeited all right and title

§. 8. "If any person discovering hidden treasure of the description specified in Section 2, of this regulation, shall not, within one month after finding the same, give notice to the judge of the zillah or city court, in conformity with Section 4, and make the deposit thereby

thereby required, he shall be considered to have forfeited all right and title to the treasure; as well as all claim to a reimbursement of expense, compensation or reward, under the provisions of this regulation; and the treasure, so clandestinely withheld from public investigation, shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner, with interest and costs; or if no private claim be established, shall, on the application of the vakeel of Government, under instructions from the Board of Revenue, or the Board of Commissioners in the Western provinces, or the commissoner in Behar and Benares, be liable to confiscation to Government." §. 9. "The summary decisions of the judges of the zillah or city courts, which may be passed under this regulation, shall be open to a summary appeal to the provincial courts, under the general rules in force relative to summary appeals." §. 10. "The decisions of two or more judges of the provincial courts, on such appeals, shall be final; unless the court of Sudder Dewanny Adawlut should, on the face of the decree, or on inspection of any documents exhibited with it, see just and sufficient ground for admitting a second summary appeal to that court; in which case only such further appeal may be admitted, and proceeded upon under the general rules in force for summary appeals."

to the treasure and compensation.

Section 9. The summary decisions of the judges of the zillah and city courts shall be open to a summary appeal to the provincial courts.

Section 10. The decision of two or more judges of the provincial courts on such appeals in what cases final.

Provision for admitting a second summary appeal before the Sudder Dewanny Adawlut.

SECTION VII.

COLLEGE OF FORT WILLIAM.

THE original provisions for this institution, as established by Regulation 9, 1800, were modified by Regulations 4, 1801, and 3, 1807; and as further modifications, or additional rules, might, from time to time, become necessary; and could most conveniently be included in the statutes of the College; which, as well as the public regulations, are enacted by the Governor General in Council; it has been judged unnecessary, that distinct regulations for the College

Original provisions for the College, in Regulation 9, 1800, modified by Regulations 4, 1801, and 3, 1807.

College should form a part of the general code of laws and regulations for the internal government of the country. A regulation, *for rescinding the regulations in force relative to the College of Fort William*, was accordingly passed on the 27th September 1814; by the second section of which such parts of Regulation 9, 1800, as were then in force, together with the whole of Regulations 4, 1801, and 3, 1807, were rescinded; and it was provided by the third section, "that the statutes of the College of Fort William, to be enacted by the Governor General in Council, shall contain whatever rules it may appear proper to establish for the admission of students; for the government and discipline of the College; and generally for the regulation of all matters appertaining to, or connected with, the College."

And the whole of the regulations in force, respecting the College, rescinded by Regulation 20, 1814.

Statutes of the College to contain all rules established for admission of students; government and discipline of the College; and other matters connected therewith.

Under the above circumstances, it might be sufficient to state, in this place, the statutes which are now in force for the government and discipline of the College of Fort William. But as some of the modifications of the original plan of the College have not proceeded from objections to the principles and policy of the design, so much as from motives of public economy, which have not allowed of parts of the intended plan of instruction to be carried into effect; or have proposed the accomplishment of them at a less expense by a Collegiate foundation in England; on this account, as well as with a view of exhibiting the whole design of the institution, (which could not be partially stated without injustice to its founder,) I subjoin, in the first instance, the preamble and provisions of Regulation 9, 1800; which, though passed by the Governor General in Council on the 10th July 1800, by a special order from Marquis Wellesley, the founder of the College, received its date from "the 4th May 1800; being the first "anniversary of the glorious and decisive victory obtained by the "British arms at Seringapatam, [the capital of the kingdom of "Mysore;" and was entitled *a regulation for the foundation of a College at Fort William in Bengal, and for the better instruction of the junior civil servants of the Honorable the English East India Company*,

Reasons, notwithstanding for subjoining the preamble and provisions of Regulation 9, 1800; as exhibiting the whole design of the institution.

Date and title of that regulation.

Company, in the important duties belonging to the several arduous stations, to which the said junior civil servants may be respectively destined, in the administration of justice, and in the general government of the British Empire in India.

"WHEREAS it hath pleased the Divine Providence to favor the counsels and arms of Great Britain in India with a continued course of prosperity and glory; and whereas by the victorious issue of several successive wars, and by the happy result of a just, wise, and moderate system of policy, extensive territories in Hindoostan, and in the Decan, have been subjected to the dominion of Great Britain; and under the government of the Honorable the English East India Company, in process of time, a great and powerful Empire has been founded, comprehending many populous and opulent provinces, and various nations, differing in religious persuasions, in language, manners, and habits; and respectively accustomed to be governed according to peculiar usages, doctrines, and laws; and whereas the sacred duty, true interests, honor, and policy of the British nation, require, that effectual provision should be made, at all times, for the good government of the British Empire in India, and for the prosperity and happiness of the people inhabiting the same; and many wise and salutary regulations have accordingly been enacted, from time to time, by the Governor General in Council, with the benevolent intent and purpose of administering to the said people their own laws, usages, and customs, in the mild and benignant spirit of the British constitution; and whereas it is indispensibly necessary, with a view to secure the due execution and administration of the said wise, salutary, and benevolent regulations, in all time to come, as well as of such regulations and laws as may hereafter be enacted by the Governor General in Council; that the civil servants of the Honorable the English East India Company, exercising high and important functions in the government of India, should be properly qualified to discharge the arduous duties of their respective offices, and stations; should be sufficiently

sufficiently instructed in the general principles of literature, and science; and should possess a competent knowledge, as well of the laws, government, and constitution of Great Britain, as of the several native languages of Hindoostan, and the Decan; and of the laws, usages, and customs of the provinces which the said civil servants respectively may be appointed to govern; and whereas the early interruption in Europe of the education and studies of the persons destined for the civil service of the Honorable the English East India Company precludes them from acquiring, previously to their arrival in India, a sufficient foundation in the general principles of literature and science, or a competent knowledge of the laws, government, and constitution of Great Britain; and many qualifications, essential to the proper discharge of the arduous and important duties of the civil service in India, cannot be fully attained otherwise than by a regular course of education and study in India, conducted under the superintendence, direction, and control of the supreme authority of the Government of these possessions; and whereas no public institution now exists in India, under which the junior servants, appointed at an early period of life to the civil service of the Honorable the English East India Company, can attain the necessary means of qualifying themselves for the high and arduous trusts to which they are respectively destined; and no system of discipline or education has been established in India, for the purpose of directing and regulating the studies of the said junior servants; or of guiding their conduct upon their first arrival in India; or of forming, improving, or preserving their morals; or of encouraging them to maintain the honor of the British name in India, by a regular and orderly course of industry, prudence, integrity, and religion. The Most Noble RICHARD MARQUIS WELLESLEY, Knight of the illustrious order of Saint Patrick, &c. &c. Governor General in Council, deeming the establishment of such an institution, and system of discipline, education, and study, to be requisite, for the good government and stability of the British Empire in India, and for the maintenance of the interests and honor of the Honor-

able

able the English East India Company; His Lordship in Council hath therefore enacted as follows." 2. "A College is hereby founded at Fort William in Bengal, for the better instruction of the junior civil servants of the Company, in such branches of literature, science, and knowledge, as may be deemed necessary to qualify them for the discharge of the duties of the different offices constituted for the administration of the government of the British possessions in the East Indies." 3. "A suitable building shall be erected for the College, containing apartments for the superior officers, for the students, for a library, and for such other purposes as may be found necessary." 4. "The Governor General shall be the patron and visitor of the College." 5. "The Members of the Supreme Council, and the Judges of the Sudder Dawanny Adawlut, and of the Nizamut Adawlut, shall be the governors of the College." 6. "The Governor General in Council shall be trustee for the management of the funds of the College; and shall regularly submit his proceedings in that capacity to the Honorable the Court of Directors." 7. "The Comptrolling Committee of Treasury shall be treasurers of the College." 8. "The Accountant General, and the Civil Auditor, shall be respectively accountant, and auditor of accounts, of the College." 9. "The Advocate General, and the Honorable Company's Standing Council, shall be the law officers of the College." 10. "The immediate government of the College shall be vested in a provost, and vice provost, and such other officers, as the patron and visitor shall think proper to appoint; with such salaries as he shall deem expedient. The provost, vice provost, and all other officers of the College, shall be removable at the discretion of the patron and visitor." 11. "The provost shall always be a clergyman of the church of England, as established by law." 12. "Every proceeding and act of the patron and visitor shall be submitted to the Honorable the Court of Directors, and shall be subjected to their pleasure." 13. "The primary duties of the provost shall be to receive the junior civil servants, on their first arrival at Fort William; to

Section 2. A College founded at Fort William, for the instruction of the junior civil servants of the Company.

Section 3. A building to be erected for the College.

Section 4. The Governor General to be the patron and visitor.

Section 5. The Members of the Supreme Council and the Judges of the Sudder Dewanny Adawlut and the Nizamut Adawlut, to be Governors.

Section 6. The Governor General in Council to be trustee for the management of the funds of the College.

Section 7. The Comptrolling Committee of Treasury to be treasurers.

Section 8. Accountant General, and Civil Auditor, to be accountant and auditor.

Section 9. The Advocate General and the Standing Council, to be the law officers.

Section 10. The immediate government of the College vested in a provost and other officers. Officers to be appointed and removed at the discretion of the patron.

Section 11. The provost to be a clergyman of the Church of England.

Section 12. Acts of the patron to be subject to the pleasure of the Court of Directors.

Section 13. Primary duties of the provost.

to superintend and regulate their general morals and conduct; to assist them with his advice and admonition; and to instruct and confirm them in the principles of the Christian religion, according to the doctrine, discipline, and rites of the Church of England, as established by law." 14. "The patron and visitor shall establish such professorships, with such endowments, as shall be judged paoper." 15. "Professorships shall be established as soon as may be practicable, and regular courses of lectures commenced, in the following branches of literature, science, and knowledge:

Section 14. The patron empowered to establish and endow professorships.

Section 15. Professorships to be established.

Arabic,
Persian,
Shanscrit,
Hindoostanee,
Bengalee,
Telinga,
Mahratta,
Tamul,
Canara,
} Languages;

Mahomedan law.
Hindoo law.
Ethics, civil jurisprudence, and the law of nations.
English law.

The regulations and laws enacted by the Governor General in Council, or by the Governors in Council, at Fort St. George and Bombay, respectively, for the civil government of the British territories in India.

Political economy, and particularly the commercial institutions, and interests, of the East India Company.

Geography and mathematics.
Modern languages of Europe.
Greek, Latin, and English classics.
General history, antient and modern.
The history and antiquities of Hindoostan and Decan.

Natural

Natural history.

Botany, chemistry, and astronomy.

16. "The patron and visitor may authorize the same professor to read lectures in more than one of the enumerated branches of study; and may, at any time, unite, or separate, any of the said professorships; or may found additional professorships in such other branches of study, as may appear necessary." 17. "The provost and vice provost, after having remained in the government of the College for the complete period of seven years, and any professor, after having read lectures in the College for the complete period of seven years, or of twenty-eight terms, and after having respectively received, under the hand and seal of the patron and visitor, a testimonial of good conduct during that period of time, shall be entitled to an annual pension for life; to be paid either in Europe or in India, according to the option of the party. The pension shall, in no case, be less than one-third of the annual salary received by such provost, or vice provost, respectively, during his continuance in the government of the College; or by any such professor, during the period of his regular lectures. The pension may, in any case, be increased, at the discretion of the patron and visitor." 18. "All the civil servants of the Company, who may be hereafter appointed on the establishment of the presidency of Bengal, shall be attached to the College, for the first three years after their arrival in Bengal; and during that period of time, the prescribed studies in the College shall constitute their sole public duty." 19. "All the civil servants now on the establishment of the presidency of Bengal, whose residence in Bengal shall not have exceeded the term of three years, shall be immediately attached to the College for the term of three years from the date of this regulation." 20. "Any of the junior civil servants of the Company in India, whether belonging to the establishment of this Presidency, or to that of Fort St. George, or of Bombay, may be admitted to the benefits of the institution, by order of the Governor General in Council,

Section 16. Patron may unite or separate any of the professorships, or found additional professorships.

Section 17. Provost, vice provost and professors, to be entitled to pensions, under certain conditions.

Section 18. All civil servants on the establishment of the presidency of Bengal, to be attached to the College, for the first three years, after their arrival.

Section 19. Civil servants, who have not resided three years in Bengal, to be attached to the College for three years, from the date of this regulation.

Section 20. Any of the junior civil servants in India, may be admitted into the College, by order of the Governor General in Council.

Section 21. Any of the junior military servants in India, may be admitted into the College, by order of the Governor General in Council.

Section 22. Four terms annually, and four vacations.

Section 23. Two public examinations to be holden annually, and honorary rewards to be publicly distributed.

Section 24. Degrees to be established, and rendered requisite qualifications, for certain offices; promotion in the civil service to be the result of merit.

Section 25. Statutes how to be framed; to be sanctioned by the patron, and printed.

Section 26. The patron empowered to amend, abrogate or enact statutes.

Section 27. Statement of salaries, appointments, &c. to be submitted, at the end of each term, to the Governor General in Council, and to be by him transmitted to the Court of Directors, with printed copies of all statutes.

Council, for such term, and under such regulations, as may be deemed advisable." 21. "Any of the junior military servants of the Company in India, whether belonging to the establishment of this Presidency, or to that of Fort St. George, or of Bombay, may be admitted to the benefits of the institution, by order of the Governor General in Council, for such term, and under such regulations, as may be deemed advisable." 22. "In the College at Fort William four terms shall be observed in each year; the duration of each term shall be two months. Four vacations shall also be established in each year; the duration of each vacation shall be one month." 23. "Two public examinations shall be holden annually; and prizes and honorary rewards shall be publicly destributed by the provost, in the presence of the patron and governors, to such students as shall appear to merit them." 24. "Degrees shall be established, and shall be rendered requisite qualifications for certain offices in the civil governments of Bengal, Fort St. George, and Bombay; and promotion in the civil service shall be the necessary result of merit publicly approved, according to the discipline and institutions of the College." 25. "Statutes shall be framed by the provost of the College, under the superintendence of the governors of the College, respecting the internal regulation, discipline, and government of the College; but no statute shall be enforced, until it shall have been sanctioned by the patron and visitor. The statutes so sanctioned shall be printed, according to a form, to be prescribed by the patron and visitor." 26. "The patron and visitor shall be empowered, at all times, of his sole and exclusive authority, to amend or abrogate any existing statute, or to enact any new statute for the regulation, discipline, and government of the College." 27. "A regular statement of all salaries, appointments, or removals of the officers of the College, shall be submitted by the patron and visitor of the College, at the expiration of each term, to the Governor General in Council; and by the Governor General in Council, to the Honorable Court of Directors. Printed copies of all statutes, enacted by the patron and visitor, shall

shall also be submitted to the Governor General in Council, and to the Honorable the Court of Directors, at the same periods of time, and in the same manner."

Nature and extent of the modifications enacted by Regulation 4, 1801.

THE modifications of Sections 18 and 19, of the above regulation, which were enacted in Regulation 4, 1801, were of a limited and temporary nature; having reference only to the civil servants of the Bengal establishment, who arrived in India before the 4th day of May 1800; and to the students attached to the College, who arrived in India within, or previous to, the years 1798 and 1799. The more essential and still subsisting alterations in the orginal provisions, for the discipline of the College, and for the period of study prescribed to the students, were made by Regulation 3, 1807; the preamble to which declared it to have been judged expedient, "that the offices of provost and vice provost of "the College, instituted at Fort William, shall be discontinued; "and the immediate government of the College be vested in a "council of the College; and that the students, admitted to the "College, be not attached to it for a definite period, but their con-"tinuance be determined by their proficiency in the prescribed "course of study."* The detailed provisions of this regulation being re-enacted, with amendments, in the fourth chapter of the statutes of the College, bearing date the 3d June 1814; and ordered to be in force from that date, *instead of the preceding statutes*; it is unnecessary to specify more of Regulation 3, 1807; or any of the College statutes, except the chapter above referred to, and a fifth chapter, which was enacted by the Governor General in Council on the 16th November 1816. These statutes contain the whole of the rules prescribed by Government, and now in force, relative

And by Regulation 3, 1807.

Provisions of Reg. 3, 1807, re-enacted with amendments, in the statutes passed on the 3d June 1814.

Fourth and fifth chapters of the College statutes contain the whole of the rules now in force.

* It would extend this Volume too much to include in it a minute narrative of all the transactions, which have taken place respecting the College, since its institution; and it is the less necessary, as works already published contain every material circumstance. See, in particular, a publication, entitled *College of Fort William*; and *Memoirs of the late Rev.* CLAUDIUS BUCHANAN, D. D. vice provost of the College. It is sufficient to state, in this place, that the offices of provost and vice provost were discontinued, solely on a principle of economy, and with a view to bring the entire disbursements for the College within the sum fixed by the Court of Directors, viz. Sicca Rupees 1,50,000.

to the College of Fort William, as constituted and operative at the end of 1817; and are *verbatim*, as follows:

Fourth chapter, enacted 3d June 1814.

"*Fourth chapter of statutes of the College of Fort William, enacted by the Right Honorable the Governor General in Council on the 3d June* 1814, *and ordered to be in force from this date, instead of the preceding statutes; the whole of which are hereby repealed.*

Court of Directors to be patrons of the College.

I. The Honorable Court of Directors of the United East India Company shall be deemed patrons of the College of Fort William.*

Governor General to be the visitor.

II. The Governor General of the British possessions in India shall be the visitor of the College.

Members of the Supreme Council to be governors of the College.

III. The Members of the Supreme Council at Fort William shall be the governors of the College.†

Immediate superintendence vested in a president and council.

IV. The immediate superintendence of the College shall be vested in a president and council, to consist of three or more members, and to be appointed by the Governor General in Council.

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* The Honourable Court of Directors having, on the 21st May 1806, given their sanction to the College of Fort William; provided the annual expense should not exceed one lack and fifty thousand Rupees; it was deemed proper to place the institution, as now regulated, under the patronage of the Honorable Court; the Governor General continuing as heretofore the visitor of the College.

† The judges of the Sudder Dewanny Adawlut, and Nizamut Adawlut, are joined with the members of the Supreme Council, as governors of the College, by Section 5, Regulation 9, 1800; but the immediate superintendence of the College, which was vested in a provost and other officers, by Section 10, of that regulation, having been transferred to a council, composed of three of the judges of the above courts, it appeared unnecessary to include them in a provision for the superior Government of the College. The council, as provided for by the next statute, may indeed consist of any persons whom the Governor General in Council shall think it proper to appoint; but it has been found convenient to select the whole of the members from among the judges of the superior civil and criminal courts, with a view to facility in consultation and dispatch of business, without the necessity of frequent meetings at the College. As, however, the offices of president and member of the College Council are gratuitous, and the duty, especially that of the president, is attended with some employment of time and labour, it is considered optional with the persons, to whom the situation may be proposed, to accept or decline it.

V.

V. The council of the College shall exercise such authority, and perform such duties, as may be committed to them by the statutes. They may also propose to the Governor General in Council the enactment of any new statute. But no statute shall be in force, until it shall have been sanctioned by the Governor General in Council.

Authorities and duties of the College council.

VI. The council of the College shall meet, as often as may be requisite, on such days as shall be appointed by the president, or in the event of his absence from Calcutta, by the senior member present, who, in such case, shall act as president. All questions, at the meetings of the College council shallbe determined by a majority of voices; or, if the votes be equal, the president, or senior member present, shall have a casting voice. Two members, when more cannot attend, shall be sufficient to constitute a meeting.

Rule for meetings and proceedings of the College Council.

VII. A secretary and assistant, with the necessary establishment of subordinate officers, shall be appointed to act under the council of the College. The secretary and assistant secretary shall receive their appointments from the Governor General in Council. The establishment of subordinate officers, in common with all other fixed establishments appertaining to the College, shall also be approved by the Governor General in Council. But the appointment and removal of the persons to be employed on such establishments shall rest with the council of the College, under such provisions as may be made by them, for the due exercise of this discretion. It shall be the duty of the secretary, or, in his absence, of the assistant secretary, to convene the meetings of the College council, under directions from the president, or acting president; and to keep a regular book of their proceedings, as well as to carry into execution all orders passed by the College council. The secretary and assistant secretary shall further execute all duties which may be committed to them by the council of the College.

A secretary, assistant secretary, and establishment of subordinate officers, to act under the College Council.
By whom to be appointed.

And what duties to be performed by them.

VIII. The principal design of the College of Fort William, as now constituted, being to furnish means of instruction in the lan-

Principal design of the College as now constituted.

guages

guages of the country, to the Company's junior civil servants, as well as, within a limited extent, to the military servants of the Company, on the Bengal establishment, with a view to qualify them for the discharge of their respective duties in the public service; professors and assistant professors shall be attached to the College, for the purpose of giving lectures to the students in the following languages:—*

And what professorships to be established for lectures to the students.

1. ARABIC.
2. PERSIAN.
3. HINDOOSTANEE.
4. SUNSKRIT.
5. BENGALEE.

Discretion reserved to Government.

The Governor General in Council, by whom the professors and assistant professors will be appointed, reserves to himself a discretion in limiting the number of each; as well as in extending, or reducing, the public lectures of the College, as he may judge expedient. The College council may likewise cause instruction to be given by the established professors, in any other language or languages, which they are competent to teach.

And to the College council.

What professorships not considered necessary at present.

IX. It is not considered necessary, at present, to establish professorships, in the Moosulman and Hindoo laws; or in the regulations of the British Government; or in the general principles of jurisprudence. Books, however, shall be supplied for the use of any students who may be laudably disposed to private study on these subjects, during the period of their attachment to the College.†

Books, however, on subjects specified, to be supplied to any students who may require them.

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* The professorships, mentioned in this statute, appeared sufficient for accomplishing the principal design of the College, as now constituted, and restricted to the Company's servants upon the Bengal establishment. Lectures, however, are occasionally given in the *Mahratta* and *Brij B'hak,ha*, when called for by particular students.

† Section 9, Regulation 3, 1807, as well as Section 15, Regulation 9, 1800, provided for the professorships referred to in this statute; but it was not found practicable to give effecient instruction in the subjects noticed; nor, if lectures were given in them, could it be expected that the students, during the short period of their usual continuance in the College, should obtain any proficiency in them, in addition to what is required from them in the acquisition of languages, to qualify them for the public service.

X. The

X. The professors and assistant professors of the College shall be subject to the authority of the College council; and shall perform their respective duties in such manner, as may be prescribed by the council of the College. They shall also, as well as the secretary and assistant secretary to the College council, on their admission to the College, make and subscribe the following declaration:—

Professors and assistant professors subject to authority of the College council.

Declaration to be made and subscribed by them; and by the secretary, and assistant secretary.

"I, A. B. do also solemnly promise and declare, that I will faithfully observe the statutes and rules of the College, of which I am about to be admitted a member; that I will endeavour, by precept and example, to maintain and promote therein, good order, discipline, and morals; and that I will not teach any doctrines, contrary to the Christian religion, or to the lawful consitution of Great Britain in Church and State."

XI. If any professor, or other officer, referred to in the preceding statute, shall appear to the College council to have neglected any part of the duties undertaken by him, or to have failed, in any respect, in the performance of the engagement entered into by him, and shall not, on the same being pointed out to him, give satisfactory assurance of correct conduct in future; a report of the same shall be made by the College council, for the information and orders of Government.

In what cases the conduct of a professor, or other officer referred to, shall be reported, for the information and orders of Government.

XII. An establishment of native teachers, for the instruction of the students in the several languages taught in the College, shall be maintained, under the sanction of the Governor General in Council, to such extent, and under such provisions, as the College council, in consultation with the professors, may consider necessary and useful. Such native teachers shall be appointed and removed by order of the College council; but shall be under the immediate direction of the professors of the language which they are employed to teach, in all matters relative to the instruction to be given by them to the students, to whom they are respectively attached. They shall also be examined by the proper professors, or assistant professors, with a view to ascertain their qualifications, before they are admitted as teachers in the College.

Provision for an establishment of native teachers for instructing the students in the languages taught in the College.

By whom the College council will be advised of any junior civil servants directed to attend the College for admission.

XIII. The College council will be advised by the secretary to the Government, in the Public Department, of the arrival at this Presidency of any junior civil servants of the Company, who may be directed to attend the College for admission as students.

By whom to be informed of any military candidates permitted to attend the College for examination, under the General Orders of 7th February 1814.

XIV. The College council will also be informed by the Adjutant General, when any military candidates for admission are permitted to attend the College for examination; with a view to their being admitted as students, if the progress, made by them in any of the country languages, shall appear to entitle them under the General Orders of the 7th February 1814, for the provisional admission of a limited number of military students.

Every person, before his admission to the College, to be furnished with a copy of the statutes and rules in force.

Declaration to be made and subscribed by him.

XV. Every person, civil or military, before his admission as a student into the College, shall be furnished with a copy of the statutes and rules in force, and after perusing the same, shall make and subscribe the following declaration:—

"I, A. B. do solemnly promise and declare, that I will faithfully observe the statutes and rules of the College, of which I am about to be admitted a member; that I will be obedient to the council, professors, and other superior officers of the College, in all matters connected with my situation as a student; and that I will, by my conduct and example, maintain and promote good order, discipline, and morals, as well as a strict observance of the duties of the Christian religion, during the period of my continuance in the College."

And particulars to be stated, for insertion in the College register.

The student proposed to be admitted shall at the same time state, for insertion in the College register, besides his name and designation, his age and place of nativity; the school, College, or University, at which he may have been educated; any degree obtained by him; the date of his appointment to the Company's service; and the time of his arrival in India.

Rule for examination of civil servants, immediately after their admission; military [illegible] before they are ad-

XVI. The civil servants of the Company, immediately after their admission as students, and the military condidates, before they are finally admitted, shall be examined by the examiners and professors of the College, in any language or languages taught in

in the College, in which they may have made any proficiency; with a view to ascertain the degree of such proficiency, to be reported to the College council, for the information of Government; or, with respect to military candidates, to be communicated to the Adjutant General, for the decision of the Commander in Chief, whether the persons examined shall be admitted as students, or otherwise.

Result of such examination, to whom to be reported.

XVII. The attachment of military students to the College is limited by the General Orders of the 7th February 1814, to one year, from the time of their admission in the months of January and July; with exception of any individuals, who, from their superior proficiency and attainments, may possess a claim to further indulgence, and may wish to continue their studies for the purpose of acquiring a knowledge of the several languages, or of any particular language, taught at the College.

For what period military students are attached to the College.

With provision for extension of it.

XVIII. The civil servants of the Company, who may be attached to the College, with a view to enable them to qualify themselves for the discharge of their future duties in the public service, shall be removed from the College, when they may appear, from the reports of the examiners and professors, to have obtained such qualification, by a competent knowledge of two of the prescribed languages, specified in the next statute; unless they shall desire to remain longer in the College, for the purpose of attaining a higher degree of proficiency in the same languages, or to become proficient in any other language taught in the College; in which case, it shall be at the discretion of the College council to give permission for that purpose, till the next public examination; and the Governor General in Council reserves to himself a power of granting it, on sufficient grounds, for a more extended period.*

Civil servants of the Company when to be removed from the College.

Unless they shall desire to remain for the acquisition of further proficiency.

Provision for such cases.

XIX. Every civil servant on the Bengal establishment, who may be admitted a student into the College of Fort William, will

What qualification in the country languages expected.

* The principle of this statute, which enables every student to leave the College for the public service, as soon as he is qualified for the duties of it, instead of attaching him to the College for a certain period of three years, (as prescribed in Section 18, Regulation 9, 1800,) had been previously adopted in Section 12, Regulation 3, 1807; which qualified the original rule, and provided, that the continuance of the students in College should, in future, *be regulated by their proficiency*.

be

from every civil servant on the Bengal establishment.

be expected to qualify himself, for the public service, by a competent knowledge of the Persian language, and of either the Hindoostanee, or the Bengalee language. The study of Arabic, and of Sunskrit, beyond what may be requisite for a grammatical and accurate knowledge of the Persian, Hindoostanee or Bengalee, shall be considered optional.*

Study of Arabic and Sunskrit, how far optional.

Terms and periods of them.

XX. The terms of the College shall be two in each year. The first term shall commence on the 1st January, and end on the 31st May. The second term shall commence on the 1st July, and end on the 30th November.

Public examinations.

XXI. The public examinations shall be holden half yearly, in the months of June and December.

Public disputations and declamations.

Distribution of prizes and honorary rewards.

And degrees of honor to be conferred.

XXII. Public disputations and declamations, in the languages taught in the College, shall be holden, from year to year, at such period as may be fixed by the visitor. The prizes and honorary rewards, which may have been awarded at the public examinations during the preceding year, shall be distributed, in the presence of the visitor, at such disputations. The visitor will also, at the same time, confer degrees of honor, for high proficiency in the oriental languages, upon those who may be found entitled to them.

* This statute was framed with reference to the particular languages, a knowledge of which appears requisite on the Bengal establishment. The Persian, though a foreign language, introduced by the Mahomedan conquerors of India, has, by long use, become the established medium of political correspondence, of proceeding and record in the Judicial Department, and of record and accounts in the Revenue Department; whilst the Hindoostanee is in very general use as a colloquial language; and the Bengalee is current, both as a written and spoken language, in the province of Bengal. By a late regulation, enacted by the Governor in Council at Fort St. George, (Regulation 15, 1816,) it is provided, that the decrees, and orders on petitions, passed by the provincial courts, and by the court of Sudder Adawlut, as well as the decrees passed by the zillah courts, "shall be written in English; and shall have annexed, or subjoined to them, a translation in one of the current languages of the country;" and the introduction of a similar enactment, in some future regulation at this Presidency, may perhaps be expedient; with a view to promote a more general knowledge of the English language; and to secure accuracy and precision in judicial decrees and orders. But the immediate execution of such a rule in the courts of justice under this Presidency, where few of the native officers are sufficiently conversant with English to write correctly in that language, would be attended with some difficulty and expense.

XXIII.

XXIII. The prizes to be awarded by the College council, on the reports of the examiners, at the public examinations, shall be as follows:—

What prizes to be awarded by the College council, on the reports of the examiners at the public examinations.

1. To every student, who may appear to have made such high proficiency in any of the languages taught in the College, as to entitle him to a degree of honor, a prize of 1000 Sicca Rupees, and a medal, for each language.

2. To every student, whose hand-writing in the Persian, Nagree, or other written character of the languages taught in the College, may appear to deserve an honorary reward, a medal for each character: provided that no student shall receive more than one medal for the same written character.

3. Medals of merit for diligent application, and consequent rapid proficiency, or for other meritorious conduct, which may appear to deserve them.

XXIV. The secretary and assistant secretary to the College council shall be the public examiners of the College; and shall be assisted, at the half yearly examinations by the professors and assistant professors of the several languages taught in the College. The public examinations, which are to be partly oral and partly by written exercises, shall be conducted in such manner as may be prescribed by the council of the College; and the reports of the examination shall be signed by the examiners, with a declaration to the following effect:—

What persons to be the public examiners. And by whom to be assisted at the half yearly examinations.

Public examinations how to be conducted.

And declaration to be subscribed to reports of the examiners.

"I, A. B. do solemnly declare, that the students named in the report have, to the best of my judgment, been impartially classed according to their proficiency, as evinced by their respective exercises."

XXV. At the public examination succeeding each term, every student shall be examined in the language or languages, which he may have studied during the preceding term. Such students as may be desirous of leaving the College shall also be examined in any other language or languages, which they may have studied during any former term, with a view to ascertain their actual proficiency in the whole of the languages studied by them in the College.

In what languages the students to be examined, at the examination succeeding each term.

As well as when desirous of leaving the College.

Reports of examiners, and professors, to be submitted, through the visitor, to the Governor General in Council.

XXVI. The reports of the examiners at each public examination, together with reports from the professors of the several languages, stating their judgment of the degree of proficiency attained by any students, whom the examiners may report qualified for the public service by a knowledge of two languages, shall be submitted through the visitor, for the information of the Governor General in Council; and the council of the College shall, at the same time, state their opinion whether any and which of the students included in such reports should be removed from the College. The Governor General in Council will pass such orders thereupon as he may judge proper.

And College council to state their opinion whether any of the students should be removed from the College. On which orders will be passed by Government.

Rules for attendance of students at the lectures of the professors and assistant professors.

XXVII. Every student shall attend the lectures of the professor or assistant professor, upon at least one of the prescribed languages, viz. Persian, Hindoostanee, or Bengalee, during each term; unless the College council shall, in any instance, see special cause for admitting a deviation fram this rule. At the commencement of each term, or with respect to students who may be admitted after the commencement of a term, at the time of their admission, the several students shall state, for the information of the College council and the professors, the lecture or lectures which they may be desirous of attending during that term; and after having obtained the permission of the College council, shall continue to attend such lecture or lectures, till the expiration of the term; unless the College council, on sufficient cause being assigned, shall allow the discontinuance of such attendance within the term. No student, without the special sanction of the College council, shall be permitted to enter upon the study of a new language, except on his admission to the College, or at the commencement of a term.

Register of attendance of students to be kept by the professors, and assistant professors, and submitted to the College council.

XXVIII. The several professors and assistant professors shall keep a register of the attendance of all students attached to their respective classes; and shall submit the same, at regular periods, for the information of the College council.

Notice to be

Whenever a student may be prevented, by sickness or by any

other

other unavoidable impediment, from attending the prescribed lectures of the College, immediate notice shall be given by the student to the secretary of the College council, or to the professor or assistant professor, whose lecture should have been attended. In cases of serious illness, or of any permanent impediment, the notification shall be made to the secretary, who will inform the several professors or assistant professors, whom the student may have been appointed to attend. In cases of slight indisposition or other temporary impediment, occasioning absence from a single lecture only, the student shall notify the same to the professor, or assistant professor, by a written declaration, in the following form:—

given by the students when prevented from attending the lectures.

In what cases such notification to be made to the secretary of the College council.

And in what cases to the professor, or assistant professor.

"I, A. B. hereby declare, upon my honor, that I am prevented from attending the (Persian, Hindoostanee, or Bengallee) lecture, on this day, by sickness, (or whatever may be the real cause of non-attendance, to be here inserted.)"

Form of declaration to be sent to the professor, or assistant professor.

This declaration is to be signed and dated, and sent to the professor, or assistant professor, at or before the usual hour of attendance; or, if any circumstance prevent its being then sent, as soon afterwards as possible, that it may be included in the professor's report to the College council.

When the cause of absence may be of a more permanent nature, the student shall state the same fully in a letter addressed to the secretary of the College council; and in cases of illness, occasioning any continued absence from the lectures, shall furnish a medical certificate from the surgeon, by whom the student may be attended, specifying the nature of his illness, and his inability to attend the College in consequence. In cases that may appear to require it, a renewed certificate shall be furnished, at any subsequent period or periods, on the requisition of the council of the College.

Letter and medical certificate to be sent in certain cases to the secretary of the College council.

In what cases a renewed medical certificate to be furnished.

Students, who may absent themselves from any prescribed lecture or lectures, which they are appointed to attend, without notifying the cause thereof to the professor, or to the secretary of the College

Rule of proceeding to be observed, respecting students who may neglect to attend

the lectures, and may not assign satisfactory reason for their absence, as required.

College council, in the mode directed by this statute; as well as all students who may not assign sufficient cause for their absence; shall be admonished, in the first instance, by the professor or assistant professor, whose class they may have neglected to attend; or, in the case of repeated neglect, shall be called before and admonished by the council of the College; after which, if the student continue inattentive to his prescribed course of study, or his conduct be otherwise exceptionable, it shall be reported to the visitor, who will adopt such measures, as the the case may appear to require.

In what case their conduct to be reported to the visitor.

No student to leave Calcutta, and its vicinity, without permission. Any infringement of this statute to be reported to the visitor.

XXIX. No student shall leave Calcutta, and its immediate vicinity, without permission from the council of the College, or from the Governor General in Council. Any instance, in which a student may be found to have infringed this statute, shall be immediately reported to the visitor, for such notice as may appear proper.

Other cases in which the students are to be admonished by the College council. Or their conduct reported to the visitor.

XXX. Students guilty of any irregular or indecorous conduct, which may not appear to call for a report to the visitor, shall be admonished by the council of the College. But all serious instances of wilful disobedience to the statutes and rules of the College, as well as offences against the principles of order, morality, or religion, shall be reported to the visitor.

Students expected to attend Divine Service.

XXXI. Regular attendance on Divine Service will be expected from the students, not as an enforced duty, but as a fit testimony in public of that proper sense of religion, with which the mind of every man ought always to be impressed. An inattention to this rule will furnish the inevitable inference, that the student is of a disposition which must render him equally indifferent to the example he will have to hold forth in public employment, as incapable of feeling the first of human obligations. As this point will be noticed attentively, the student, who may give occasion for such a judgment to be formed of his charactor, must expect to find it operate materially to his disadvantage.

The contracting of debt cons-

XXXII. The situation of a student in the College being such as

as to preclude the necessity of any expense beyond his actual allowances; the contracting of debt will be considered as a serious offence against the statutes and discipline of the institution; implying pursuits and habits incompatible with its objects, and irreconciliable to that study and attention, which is expected from all its members. The public interests are equally concerned on this point with those of individuals; and it is hereby declared, that a young man leaving College and entering on the public service, under heavy pecuniary embarrassments, and after having contracted habits of prodigality, will be considered to labour under disadvantages, almost amounting to a disqualification, when offering himself as a candidate for any situation of high trust and confidence. The College council will be careful to pay particular attention to the conduct of the students on this point, and will consider it as their bounden duty to communicate to the Governor General, in his capacity of visitor, every particular that may come to their knowledge on the subject. The students of the College are accordingly enjoined to pay particular attention to this rule, and to regard it as a warning of the consequences of their contracting debt, and as an injunction to the practise of those habits of prudence and economy, which will enable them to live within their income.

sidered as a serious offence.

Result to be expected from it.

And communication to be made to the visitor.

XXXIII. Whenever it may appear to the College council, that a student, civil or military, is not availing himself of the means of instruction afforded by the College, or from expensive habits, or otherwise, does not, from his own misconduct, receive the benefit intended by his attachment to the College; and any admonition, which the College council may judge it proper to give to such student in the first instance, shall prove ineffectual; a report of the circumstances of the case shall be made, through the visitor, for the information of the Governor General in Council, who will take immediate measures for the removal of such student from the College.

In what cases a report to be made, through the visitor, to the Governor General in Council, of students, who, from neglect or other misconduct, may not appear to derive any benefit from the College.

Whenever also any student shall not be reported qualified for the public service at the second annual examination, that may

Report to be made respecting students not found qualified for the serv

have

at a second annual examination.

have taken place since he has been attached to the College, it shall be the duty of the College council to report particularly to the visitor the causes which may have retarded the progress of his studies; specifying distinctly the degree of knowledge he may have acquired, the nature of his habits, whether studious, or otherwise, and also his character for general regularity and subordination to the rules and discipline of the College. On receiving this report, the visitor will determine on the propriety of adopting measures, with a view of marking, by public reproof, or by removal from the College, any confirmed idleness, or other wilful cause of so dilatory a progress, which may appear from the circumstances of the case.

Consequences of removal from College, under the preceding statute, or under any other statute, on account of misconduct, when the student removed may be a civil servant of the Company, not reported qualified for the public service.

XXXIV. If the student removed from the College under the preceding statute, or under any other statute, on account of misconduct, shall be a civil servant of the Company, and shall not have been reported qualified for the public service, by a competent knowledge of two of the prescribed languages, he shall be considered as a disqualified servant of the Company; not capable of being promoted in the public service, or of receiving an allowance, exceeding three hundred Rupees per mensem; until he shall have proved, to the satisfaction of Government, an amendment of conduct, and qualification for the public service, by an examination at the College of Fort William; or, should any circumstance prevent this, by an examination before such persons as may be selected and appointed by Government for the purpose.*

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* The council of the College, in submitting a draught of the 4th chapter of statutes, for the consideration of Government, in May 1814, expressed their deliberate judgement, that the future dicipline and success of the institution would depend essentially upon a strict and impartial adherence to this and the preceding statute; and Lord MOIRA, in his discourse to the students at the public disputation held on the 27th June 1814, after stating the rule which had been recently established in the statutes abovementioned, declared, that he considered it to be "essentially necessary for the general welfare of the institution that this rule should be strictly enforced." His Lordship added:—"Having alluded to the new chapter of statutes, it may perhaps be necessary that I should notice another alteration introduced into the forms before observed. It had been usual to call on the students for an annual or half yearly report of the state of their debts; such a practice I conceived to be objectionable; as it

The disqualified civil servants of the Company, who may fall within this rule, shall be placed under the judges, collectors, or other public officers, at some station out of Calcutta; and shall remain there until they apply for and pass the requisite examination; unless, in any instance, upon application of the party, and assurance of future diligence and good conduct, the Governor General in Council shall judge it proper to allow him to return and prosecute his studies in the College.

Disqualified civil servants, who may fall within this rule, where to be stationed.

The names of all such disqualified servants shall be entered on a public register, to be kept in the office of the Chief Secretary to Government, as well as in the College; and the junior civil servants of the Company, who are or may be attached to the College of Fort William, are hereby advised, that the rule now declared will be strictly and invariably enforced against all such as shall not evince a disposition to avail themselves of the ready and ample means of instruction, which are furnished by the College, for qualifying them to discharge the duties of the service to which they are appointed.

Names of such disqualified servants where to be registered.

Notification, that the rule now declared will be strictly and invariably enforced.

XXXV. The Governor General in Council reserves to himself a discretionary power of determining, in such cases, what shall be ultimately considered a sufficient qualification for employment in the public service. But it is hereby notified, that no civil servant, who has been offered the means of instruction afforded by the College, shall be appointed to any situation in the Political, Judicial, or Revenue Department, with a salary exceeding three hundred Rupees per mensem, until he shall have been examined and found qualified by a competent knowledge of the Persian language, as well as of either the Hindoostanee or Bengalee language.

Power reserved to Government of determining what shall be considered a sufficient qualification for employment in the service.

But no civil servant to be appointed to any situation in the Political, Judicial, or Revenue Department, with a salary exceeding three hundred Rupees per mensem, without certain qualifications.

XXXVI. When a student, civil or military, shall have completed his course of study in the College of Fort William, and shall

Certificates to be granted by the council of the

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it was apt to lead the young men into disingenuous subterfuges. I have therefore abolished this custom, and have directed instead, that whenever it may come to the notice of the College council that any student is incumbered with debt, they should report the same to me, as visitor; and I shall not fail to regard such student as labouring under disadvantages, almost amounting to a disqualification, when he may offer himself as a candidate for any situation of trust and responsibility."

obtain

College to students who have completed their course of study, and obtained permission to quit the College.

obtain permission to quit the College, he shall receive, from the council of the College, a certificate, specifying the proficiency he may have obtained in the studies of the College; the prizes or honorary rewards adjudged to him; the degree or degrees of honor conferred upon him by the visitor; and the general tenor of his conduct during the period of his attachment to the College. Attested copies of all such certificates shall be transmitted to the Chief Secretary to the Government, for the purpose of being entered on the public records.

Copies to be transmitted to the Chief Secretary to Government.

What degrees of honor will be conferred by the visitor, in addition to those for high proficiency in the oriental languages.

XXXVII. In addition to degrees of honor for high proficiency in any of the oriental languages, taught in the College of Fort William; the visitor will also confer a degree of honor upon any student, who, on examination, may be found to merit it, for eminent knowledge of the Moosulman, or Hindoo law, or the Regulations of the British Government. Medals of merit shall also be awarded to any students who may appear to deserve them for their knowledge of these subjects.

Medals for merit to be also awarded for knowledge of the subjects referred to.

Further rule for granting degrees of honor to persons entitled to them, under the General Orders issued in the Military Department on the 7th February 1814.

XXXVIII. Degrees of honor for high proficiency in any of the oriental languages will likewise be granted by the visitor to any person who may be found entitled to them, under the following paragraph of the General Orders passed in the Military Department, under date the 7th February 1814.

"Adverting to the important objects proposed by the admission of military students to the College of Fort William, as stated in the proceedings of Government in the Public Department, under date the 1st of October 1813, and the General Order published on the 18th of December last; and considering that there may be officers, who, though prevented by the length of their residence in India, their actual situation or employment, or other circumstances, from availing themselves of the means of instruction afforded to a limited number of the junior military servants of the Honorable Company's service; yet may be desirous of obtaining a public mark of distinction, and thus bringing to the knowledge of their superiors the meritorious acquirement, by

private

private study of those qualifications deemed highly essential to the public interests; the Governor General in Council is pleased to allow such individuals the option of being publicly examined by the professors and examiners of the College of Fort William, in any of the Eastern languages, with a view to shew their proficiency therein. Reports of these examinations to be submitted to the Right Honorable the Governor General in Council, through the College council, and copies of them to be sent by the secretary, through the Adjutant General, for the information of the Commander in Chief; and degrees of honor to be granted for high proficiency to all who may appear entitled to the distinction."

Expenses of civil and military branches of the College to be kept distinct.

Accountant General, and Civil Auditor to be considered accountant, and auditor of accounts, for the College.

And to furnish the secretary of the College council with instructions respecting accounts.

And to furnish all accounts and statements relative to disbursements of the College.

Sums required for expenditure on account of the College, how to be drawn for and paid.

XXXIX. All expenses, attending the civil and military branches of the College of Fort William, as now constituted, shall, as far as practicable, be kept distinct. The Accountant General, and Civil Auditor, who are to be respectively considered accountant, and auditor of accounts, for the College of Fort William, shall furnish the secretary of the College council with any instructions which may be necessary for carrying this rule into effect; and shall also furnish all accounts and statements, relative to disbursements for the College, which may be required by the Governor General in Council, or by the College council, or for transmission to the Honorable Court of Directors. All sums required for expenditures on account of the College, whether fixed or contingent, shall be drawn for, in the usual manner, under such restrictions as have been or may be established; and after being sanctioned by the Governor General in Council, shall be paid from the general treasury.

Annual statement of disbursements on account of the College, or for purposes connected with the College, to be prepared by the Accountant General.

And submitted, through the College council, to Government.

Duty of College council on ex-

XL. At the end of each year of account, viz. on the 1st May of each successive year, a general statement of disbursements on account of the College of Fort William, or for purposes connected with the College, during the past year, under distinct heads, shall be prepared by the Accountant General, and submitted, through the council of the College, to the Governor General in Council. On examination of such statements, it shall be the duty of the College council as well to consider whether any part of the College establishments,

xmination of such statements.

blishments, or disbursements, will admit of better regulation or reduction; and, in that case, to report their sentiments, with any information that may be necessary, for the consideration and orders of Government.

Students allowed the use of books in the College library, under rules established on the subject. Will also be provided with class books under stated restrictions. Students to be careful in preserving such books, and in returning them to the College library.

XLI. The students of the College will be allowed the use of books in the College library, under such rules as have been or may be established by the council of the College on this subject. It is also intended to furnish the College library with a sufficient number of class books in the several languages taught in the College; excepting Grammars and Dictionaries, with which the students are expected to supply themselves. Such class books being intended for the use of the students, in succession, who may be attached to the College, no student is to take them with him on leaving the College; but, on the contrary, every student is required to be careful in preserving, and returning to the College library, the books which may be lent to him for his instruction.*

Rule for encouragement, by a public subscription, of literary works of merit and utility, which may appear to deserve it.

XLII. The council of the College will continue to propose to the Governor General in Council the encouragement, by a public subscription, of such literary works of merit and utility, as may appear to deserve such encouragement, under the instructions which have been received from the Honorable Court of Directors on this subject, or which may hereafter be communicated to the College council. Forty copies of all works so encouraged shall be transmitted, as heretofore, to the Honorable the Court of Directors, for the use of the College at Hertford; and the remainder shall be disposed of, in such manner as the Governor General in Council, on the suggestion of the council of the College, may think it proper to direct. The amount of subscriptions for works of oriental literature encouraged by Government, at the recom-

Copies subscribed for of such works, how to be disposed of.

Amount of subscriptions for such books, as well as price of

* The College library, which was originally founded on voluntary contributions, and was afterwards chiefly supplied with local publications, on oriental literature, has been recently furnished with a valuable addition of scientific, literary, historical and other books, purchased in Europe by Captain Lockett, with the liberal consent of the Honorable Court of Directors; and with a view to render the library useful to others, as well as to the students of the College; in prosecution of which design, a catalogue of all the books in the library, whether printed or manuscript, is now preparing for publication.

mendation

mendation of the College council, as well as the price of class books, or other books or papers printed for the use of the College, shall be included in the annual statements required by Statute 41; but shall be distinguished under separate heads, with a view to shew the actual expense incurred for the College, or for any other purpose.

class books, and other books and papers, printed for the College, how to be charged in the public accounts.

XLIII. If any other persons, than the civil and military servants of the Company on the Bengal establishment, shall, at any time, be permitted by the Governor General in Council to attend the lectures given in the College of Fort William, and the expense of native teachers, or any other expense, shall be incurred in the instruction of such persons, the same shall be charged, in the general accounts of the College, under a separate head. The Governor General in Council, who reserves to himself a general power of directing what students shall be admitted to the College, will also, in such cases, determine whether the person admitted to attend the lectures shall be entitled, or not, to the full privileges of a regular student, with respect to prizes and honorary rewards.

Expense incurred in the instruction of any students, not being the civil or military servants of the Company on the Bengal establishment, how to be charged.

General powers reserved to Governor General in Council of directing what students shall be admitted to the College with or without the full privileges of a regular student.

Fifth Chapter of Statutes of the College of Fort William, enacted by the Right Honorable the Governor General in Council, on the 16th of November, 1816, and ordered to be in force from that date.

Fifth chapter, enacted on the 16th November, 1816.

I. Such part of Statute XXIII, of the fourth chapter, enacted on the 3d June, 1814, as directs, that a prize of 1,000 Sicca Rupees be awarded, at the public examinations, to every student who may appear to have made such high proficiency in any of the languages taught in the College, as shall entitle him to a degree of honor, is hereby rescinded.*

Part of Statute 23. of the fourth chapter, repealed.

* The discontinuance of pecuniary rewards by this statute was dictated by the necessity of limiting the total annual expenses of the College to the sum of one lack and fifty thousand Rupees, fixed by the orders of the Honorable Court of Directors; and by a desire of bringing within this limitation an establishment of assistant professors, with a view to afford means of instruction, in the languages of the country, to the military, as well as civil servants of the Company.

Degrees of honor, medals, and prizes of books to be awarded in future for high proficiency.

II. The council of the College shall in future award, at the public examinations, to every student, civil or military, who may have attended the lectures of any of the professors, or assistant professors, in the College; and may appear, from the report of the examiners, to have attained such high proficiency in any of the oriental languages taught in the College, as shall entitle him to a degree of honor in such language, or languages; a degree of honor and a gold medal, for each language, with a prize of oriental books, equal in value to the medal, or medals, adjudged for high proficiency; to be selected, as far as practicable, from the books in the College library.

Degrees of honor and medals to be adjudged for proficiency in the Sunskrit, or Arabic language, and conversance in books of law, composed in either of those languages, by civil servants who have left the College.

III. The Honorable Court of Directors having discontinued the pecuniary reward of 5,000 Rupees, which was formerly granted to the civil servants of this establishment, who might attain a certain proficiency in the Arabic and Sunskrit languages, such as should enable them to read and explain books of Mohummedan and Hindoo law; and the Governor General in Council being, at the same time, desirous of encouraging a prosecution of study in the Arabic and Sunskrit languages, by the civil servants on this establishment, after leaving the College, with a view to their acquiring a competent knowledge of the laws of the country; it is hereby notified, that a degree of honor, and a gold medal, will be granted to any civil servant of this establishment, who may not have already attained the prescribed reward for high proficiency in the Arabic or Sunskrit language, in the College of Fort William; and may, at an examination, to be held before such persons as may be appointed by Government for the purpose, evince such proficiency in the Arabic or Sunskrit language, and conversance in books of law, composed in either of those languages, as may appear to entitle him to a degree of honor.

Part of Section 34, of the fourth chapter, repealed.

IV. Such part of Statute XXXIV, of the fourth chapter, enacted on the 3d June, 1814, as directs, that the secretary, and assistant secretary, to the College council, shall be the public examiners of the College, and which requires that the public examinations shall be

partly

partly oral, and partly by written exercises, is hereby repealed.*

V. The Governor General in Council will appoint such persons, as he may judge proper, to be the public examiners of the College; and the examination of all students attached to the College shall be conducted by them, with the aid of the professors and assistant professors of the several languages taught in the College, in such manner as may be prescribed by the College coun-

Rule for future appointment of examiners; and examination of students, how to be conducted.

* The alteration provided for by this and the following statute, as far as it respects the public examiners of the College, was occasioned by an order from the Court of Directors, which, on a principle of economy, directed a discontinuance of the office of assistant secretary to the College council. But an arrangement for continuing the joint office of assistant secretary and examiner, without exceeding the annual expense fixed for the entire Collegiate establishment, has been suggested by the council of the College; and this arrangement, which includes also a provision for a certain number of military students, with the assistant professors required for their instruction, has been submitted by the Governor General in Council, for the final orders of the Honorable Court. The amendment of the former statute, which required that the public examinations should be partly oral and partly by written exercises, was made at the recommendation of the examiners; and with a view to enable them to adopt, in all cases, the most efficient and certain means of ascertaining the real proficiency of the students. In some instances, a comprehensive oral examination, conducted personally by the examiners, has been found more satisfactory for this purpose than the performance of written exercises, which are less subject to inspection; and in all cases, the degree of readiness and correctness, with which a student reads and explains the exercises in which he is tried at the oral examination, must afford a test and criterion for determining his ability to execute a more difficult written exercise. The just ascertainment of the real progress of the students in their respective studies, at the periodical examinations, and of their qualification for the public service, at the time of their quitting the College, being of the first importance to the object and success of the institution, and to the credit and interests of the students attached to it, the council of the College of Fort William, as well as the examiners and professors, have ever felt an anxious wish to adopt any improvement, in the mode of conducting the public examinations, which has been suggested by experience; and with the same view it appears desirable, that a reciprocal communication should take place, from time to time, with the College at Fort St. George; as well to apprize the officers of that establishment of the course of instruction, and method of examination, which are adopted at this presidency, as to obtain similar information from the sister institution at Madras. It is understood, that the mode of instruction at the two presidencies materially differs; the students at Madras being chiefly, if not entirely, instructed in the languages of the country by native teachers, under general European inspection and control; and although this must be considered a deficiency, originating in a principle of economy, it may be useful to ascertain, by a comparison of the relative progress of the students at Fort William and Fort St. George, to what extent the proficiency of a diligent student is accelerated by the superior means of instruction, which are here provided for, by an establishment of learned, able, and zealous European professors.

cil. But no person shall be permanently appointed to the office of public examiner in the College, without satisfactory proof of his eminent proficiency in two, at least, of the languages taught in the College, by having obtained degrees of honor in such languages. Nor shall any person be appointed professor or assistant professor in the College, without a similar demonstration of his high proficiency in the particular language to be taught by him.

Concluding observations and extract from the discourse of the acting visitor of the College, at the disputation held on the 7th July 1815.

HAVING been nominated a member of the College council at the commencement of the year 1807, and having, for some years past, held the station of president of that council, it may be expected, that in concluding this Analysis, which was originally designed for the use of the students in the College of Fort William, I should offer some comment on the utility of that institution; and state in what degree the objects proposed by it appear to have practically obtained. But I feel unwilling to add to this extended Volume, by any observations of my own, upon a subject, which has been so ably and copiously treated in the discourses of the eminent persons, who, in the capacity of Visitor, have presided at the annual disputations of the students. These discourses bear abundant and authoritative testimony to the success of the institution, in accomplishing its principal object, of qualifying the junior civil servants of the Company for the due execution of their duties in the public service, by enabling them to acquire a competent knowledge of the languages of the country, in the use of which those duties must be performed; and I cannot adduce more satisfactory or conclusive evidence upon this point, than the following extract from the discourse given at the disputation of 1815, by the acting visitor, Mr. EDMONSTONE; whose critical knowledge and distinguished erudition, as an oriental scholar, stamp a peculiar value on his testimony.

"The advantage which the student derives from the tuition of the College is, the acquisition of an abundant stock of fundamental knowledge of the principles, construction, and peculiarities of the languages which he studies; combined, also, with a certain degree of practical skill in reading, translating and conversing.

Antecedently

Antecedently to the institution of the College of Fort William, where were the means of obtaining this fundamental instruction to be found? Not in the few imperfect works, which the meritorious labours of early orientalists, prosecuted under every circumstance of difficulty and disadvantage, had given to the public: nor in the capacity of native teachers to communicate the rules and principles, to explain the difficulties, and impart the genius of their respective languages, even when the instructor and his pupil had the rare advantage of being mutually intelligible. The consequence was such as might be expected; the industrious few, who had the patience to persevere in opposition to these disadvantages, acquired, after a long and laborious application, a practical, but still an imperfect, use of the languages which they studied. They imbibed little knowledge of the principles and rules of grammatical construction; and the degree of practical skill, which they ultimately attained, was rather the effect of persevering imitation, than the fruit of systematic study, aided by the lights of philological science. The bulk of the Company's servants were contented with the degrees of proficiency in the languages forming the medium of correspondence, of record and of oral communication, which was attainable in the ordinary intercourse with the natives of the country, and in the transaction of public business. In the College, the utmost facility is afforded for the attainment of every language that can be required for the purposes of the public service, within the limits of the territories immediately subject to this Presidency. The industry and erudition of its professors, and others, attached to the College, and the encouragement extended by a liberal Government to the learned and the diligent, have supplied all the aid that can be derived from the labours of philology, and from the gradation and variety of classical works; and to these is superadded the incalculable advantage of being enabled to prosecute the study of the languages, under the personal guidance and instructions of learned European tutors. The elemental knowledge and practical proficiency,

ciency, which the junior servants of the present day have thus the means of obtaining, by a short residence in the College, constitute a foundation, on which it is in the power of every individual to raise a noble superstructure. The materials are placed at his disposal; he has acquired the mode and the habit of combining them; and when natural capacity is not deficient, the progress of improvement can only be limited by apathy or inattention. For want of these advantages, the number of those who attained to any degree of proficiency in the languages of India, antecedently to the institution of the College, was extremely confined. The language of Arabia, which enters so largely into the composition of those two great organs of intercourse and communication, the Persian and the Hindoostanee tongues, and forms the receptacle of the code of laws administered to the millions whom we govern; and the Sunskrit, which enshrines the mythology, the history, and the law of the Hindoos, and claims the parentage of the numerous affiliated languages of the Peninsula, could boast only of a few occasional votaries, who, by the light of genius and the aid of persevering industry, acquired and imparted a knowledge of those languages, and sowed the seeds of that learning, which, under the auspices of the College of Fort William, has been so successfully cultivated, and so widely diffused. The proportion of the servants of the Company, who acquired a knowledge of the Persian language, was comparatively inconsiderable; and the general standard of proficiency in that language was extremely low. Unaided by a Moonshee, few were capable of executing even the ordinary business of translating from Persian into English; and still fewer were able to perform the converse of that operation with any degree of grammatical correctness, without the same assistance. The nice and intricate rules, which govern the construction of the Hindoostanee language, the peculiarities which distinguish that language, the elegance, the variety and the power of which it is susceptible, were brought to light by the long and arduous labours of Dr. GILCHRIST, who had the merit of exploring, by the mere

force

force of genius and industry, the nature and conformation of that complex and intricate dialect. The knowledge, which, prior to that era, the servants of the Company in general attained, of a language so extensive in its use and application, and so intimately connected with every branch of the administration of this Empire, naturally corresponded with the obscurity which prevailed, until dispelled by the philological labors of the author of the Hindoostanee Grammar and Dictionary, and by the progressive operations of the College. Having no access to grammatical instruction, nor even to books composed in the Hindoostanee language, for, of the latter, none but a few poetical works were in existence; the servants of the Company principally derived their acquaintance with that language from their intercourse with the natives, in the ordinary concerns of private life, and in the transaction of public affairs. It cannot be supposed that, by means such as these, an enlarged and accurate knowledge of the colloquial language of India could possibly be attained; and, in fact, the number who possessed the power of maintaining a conversation in that language with any degree of elegance or propriety, or even of expressing in adequate terms the purpose of the mind, as it arises in the progress of colloquial intercourse, of argument and of negociation in the transaction of affairs, whether public or private, was extremely limited. The language of Bengal—a knowledge of which is so obviously important in official situations within the limits of the province—was generally neglected and unknown by the public servants, who filled those situations. How essential, how extensive has been the change in all these respects, since the establishment of the College of Fort William! Gentlemen eminently distinguished for their knowledge and acquirements, in each of these languages, are now the organs of instruction to successive bodies of the junior servants of the Company, civil and military. The profound oriental learning of Dr. Lumsden, professor of Arabic and Persian, has supplied that great desideratum, a complete Grammar of the Persian language; and the first part of his valuable Arabic Grammar has also been given to the public; works of which I venture confidently to affirm, that

that they not only embrace a most able and scientific arrangement and illustration of grammatical rules, calculated to afford the amplest means of acquiring a critical knowledge of those languages, but that they also develope and exemplify the principle of general grammar, in a degree yet unrivalled by any of the philologists of Europe. In addition to these and other philological works, books requisite for the study of every language, taught in the College, have been collected, composed or compiled; every obstacle, which formerly impeded the progress of the student, has been removed; every possible facility has been supplied, by the labor and erudition of the professors and learned natives attached to the College. The effect has been commensurate with the means which have been provided. 'Exclusively of the numerous instances of eminent and extraordinary proficiency, which have done honor to the institution, the College has annually transferred to the public service a body of young men, most, if not all, of whom had acquired a fundamental knowledge of two or more languages; and some had risen to high practical proficiency, not only in those which may be termed the living languages of India, but also in the abstruse and refined repositories of oriental learning and science, the Arabic and Sunskrit; and although it was not to be expected, that the advantages of the College should be improved by all the students, that the seed should grow and flourish in every soil in which it had been sown, yet I do not incur the hazard of error, when I assert that the general stock, both of theoretical and practical acquaintance with the languages of the country, among the servants of the Company, has been augmented and improved in a very extensive and sensible degree. I might also refer to specific instances of the power of elocution and of composition in the languages of India, possessed by several public officers holding high situations, who had passed through the studies of the College, in proof of the advantages, which an institution like this is exclusively calculated to afford, in the acquisition of the oriental languages. It remains, however, to advert to the argument adduced in proof of the sufficiency of the knowledge of the Eastern lan-

guages

guages generally possessed by the Company's servants antecedently to the institution of the College, which is founded on the progressive prosperity and power of the British dominion in India, and on the success which attended the administration of the concerns of this great Empire. When we contemplate our situation in this country; when we reflect that we are governing a population of many millions, to whom our language is unknown, whose religion, habits, manners, usages and prejudices wholly differ from our own, no argument would seem requisite to prove, that the diffusion of the benefits and blessings of a British administration among these, our subjects, must essentially depend on the degree in which the power of communication with the natives of India is possessed by the public officers, employed in the various branches of this great and complicated government. Splendid as has been the career of our dominion, prosperous as has been the conduct of its internal concerns, who will allege that no advantages have been lost, no evils have been incurred, which a skilful use of the powers of language might not have secured and prevented? We will say, that improved means of direct intercourse with our subjects are not indispensibly required to co-operate with the enactment and administration of salutary laws, for the purpose of diffusing the knowledge and the practice of those principles of conduct, which have a tendency to exalt the standard of national character, to diminish the prevalence of immorality and crime, and to promote the general welfare and happiness of the inhabitants of these territories. Who will maintain, that far greater advances in the attainment of such important purposes might not long since have been made, if the existing facilities of oriental study and acquirement had, in early times, enabled the Company's servants to arrive at that proficiency, which is now so generally attained? All, therefore, who unite in the opinion which I profess to entertain of the great advantages of this institution, even when considered merely as the means of stimulating and enabling the civil and military servants of the Company to acquire an intimate and critical knowledge of the languages of the East, must anxious-

ly

ly desire its stability; and to such it must be satisfactory to reflect, that the College has been formally recognized by an act of the legislature, as well as that the Honorable Court of Directors continue to afford to it their indispensible support; deeming their College of Hertford, so far as it embraces the study of the Eastern languages, to be calculated only as an elementary preparation for the more efficient and exclusive studies of this institution."

Mr. Edmonstone adds, "I am aware, that the benefits of the College of Fort William, considered in a general point of view, have been disputed on grounds which have reference to the habits and private conduct of the students; that the advantages of efficient instruction in the oriental languages have been deemed to be over-balanced, by the example and contagion of dissipation and extravagance. But I have reason to believe, that the degree of discredit to which the College may have been exposed in this respect, has proceeded rather from the prominent misconduct of a few, who, perhaps, in any situation, would have disregarded the obligations of duty and discretion, than from the general prevalence of irregularity in the body of the students; and to whatever extent the charge might have been justly applicable at some period of the institution, I have the satisfaction to know, that at the present time, instances of deviation from the maxims and rules of prudence and propriety (for such must always exist in every large association,) are exceptions to the general system of conduct observable among the students of the College. This gratifying improvement may, perhaps, be traced to sources beyond the limits of this establishment; but to the paternal superintendance of the Government, to the vigilance of the respectable members of the College council, to the advice and attention of the professors and officers, and to the operation of the salutary rules and ordinances of the College, must also be attributed, in a material degree, the actual state of its moral prosperity. At the same time, it is certainly to be desired, that the means of promoting the important object of Collegiate discipline, should be systematized in the

College

College of Fort William, as in other similar institutions, by arrangements calculated to meet those evils and defects, the real or supposed existence of which has induced persons of acknowleged judgment to doubt the expediency of this system of oriental education."

Opinion of the author of this Analysis, in full concurrence with the sentiments expressed by Mr. Edmonstone.

As far as my own experience, derived from official situations in the College of Fort William during a period of more than twelve years, can authorize an opinion, I do not hesitate in declaring a full concurrence in the sentiments above stated; and I will conclude, in the further terms of Mr. EDMONSTONE's address, that having, in common with him, been honored with a professorship in the College soon after its establishment, and having, both in that situation and in a higher department of the institution, "witnessed its efficacy and its advantages, I cannot refrain from taking this opportunity of professing a warm personal interest in its prosperity, and an earnest solicitude for its permanent duration."

END OF VOLUME THIRD.

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ERRATA.

Page 114,	*Line* 1,	*For* *imported*	*Read* *exported*
146,	5, *from below,*	accoring	according
163,	14, *ditto,*	on	or
187,	2,	continued	construed
196,	7, *from below,*	1793	1813
227,	*in the margin,*	hojury	enquiry
236,	2, *from below,*	*Dulsoor*	*Dustoor*
265,	2, *ditto,*	as	a
275,	11,	Rajhashy	Rajshahy
286,	21,	KISBUNDY	KISTBUNDY
299,	4,	maliknah	malikanah
322,	20,	night	right
420,	4, *from below,*	from	four
424,	*in the margin,*	land	hand
451,	20,	intention	inattention
545,	6, *from below,*	Ahawluts	Adawluts
555,	4, *ditto,*	brsng	bring
612,	4, *ditto,*	dustoories	dustoorecas
625,	3,	akbarry	abkarry
628,	6, *from below,*	*ditto*	*ditto*
631,	17,	ro	or
710,	4,	*after* shall	*insert* not
796,	4, *from below,*	XXXIV	XXIV
——,	*in the margin,*	34	24

Landholders; rights of, *v.* Zemindars, *has also been omitted in its place under the* Heads of the Index.

APPENDIX.

Titles of Regulations in force at the end of the year 1817, *which are not included in this Analysis; having been enacted since the parts of this work, to the subjects of which they relate, were printed.*

REGULATION 3, 1809.

A REGULATION for the support of the police in the cantonments and military bazars; for defining the powers of the civil and military officers in the performance of that duty; and for fixing the local limits of the said cantonments and bazars.

REGULATION 5, 1809.

A regulation to provide in certain cases for the trial of native subjects of the British Government, who may be charged with crimes or misdemeanors committed in places out of the limits of the British provinces.

REGULATION 1, 1810.

A regulation for occasionally dispensing with the attendance and futwa of the law officers of the courts of circuit.

REGULATION 3, 1810.

A regulation for dispensing with the oaths of paupers, on their subscribing a solemn declaration, in certain cases.

REGULATION 6, 1810.

A regulation for defining the penalties to which zemindars and others shall be subject, for neglecting to give due information of robberies, and for harbouring robbers.

REGULATION 8, 1810.

A regulation for the appointment of superintendents of police in the divisions of Patna, Benares, and Bareilly.

REGULATION 13, 1810.

A regulation for expediting the trial and decision of causes depending in the civil courts; and for promoting the amicable adjustment of civil suits.

RE-

REGULATION 14, 1810.

A regulation for defining the powers of the court of Nizamut Adawlut, in cases of pardon and mitigation of punishment; and for declaring the competency of the courts of circuit, to admit prisoners to bail, in certain cases, during a reference of their trials to the Nizamut Adawlut.

REGULATION 16, 1810.

A regulation to amend the existing rules for the appointment of zillah and city magistrates; to provide for the appointment of joint and assistant magistrates; and to alter the provisions in force for the payment of a fixed reward on the conviction of public offenders.

REGULATION 20, 1810.

A regulation for subjecting persons attached to the military establishments to martial law in certain cases, and for the better government of the retainers and dependents of the army receiving public pay on fixed establishments, and of persons seeking a livelihood, by supplying the troops in garrison, cantonment, and station military bazars, or attached to bazars of corps.

REGULATION 1, 1811.

A regulation for making more adequate provision for the punishment of persons found guilty of the offence of breaking into houses, tents, or boats; for subjecting to exemplary punishment, persons receiving or purchasing plundered or stolen property; and for granting licenses to gold or silver smiths, braziers, or copper-smiths, iron-smiths, pawn-brokers, retail venders of brass or copper wares, and pykars or itinerant dealers in second-hand articles.

REGULATION 7, 1811.

A regulation for limiting and better defining the powers of the police darogahs, and of zemindars invested with the charge of the police, with respect to persons charged with, or suspected of, the commission of public crimes and offences.

RE-

REGULATION 14, 1811.

A regulation for amending the provisions of the existing regulations, respecting the punishment of criminals by transportation, and for modifying the rules in force regarding the offices of judge and magistrate of the 24-pergunnahs.

REGULATION 3, 1812.

A regulation for amending some of the rules at present in force in regard to the conduct of enquiries into charges of a criminal nature, and for establishing additional provisions, with a view to the more effectual apprehension of criminals.

REGULATION 4, 1812.

A regulation to enable the Governor General in Council to institute or defend, through the medium of the public officers of Government, actions, in which native princes, which it would be improper to require to appear as plaintiffs or defendants in the courts of judicature, may be parties.

REGULATION 11, 1812.

A regulation to empower the Governor General in Council to order the removal of emigrants from foreign countries and their descendants from any place in the vicinity of the frontier of the state, from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants, who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

REGULATION 15, 1812.

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ZEMINDARS OR LANDHOLDERS; RIGHTS OF.

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